

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

DARRELL C. SCHRODER,	§	No. 08-08-00086-CV
Appellant,	§	Appeal from the
v.	§	County Court No. 3
JAMES & HAUGLAND, P.C. F/K/A	§	of El Paso County, Texas
JAMES, GOLDMAN & HAUGLAND,	§	(TC# 2006-2376)
P.C.,	§	
Appellee.		

MEMORANDUM OPINION

This appeal is before the Court on its own motion for determination whether the appeal should be dismissed for want of jurisdiction. Finding that Appellant did not timely file the notice of appeal, we dismiss the appeal for want of jurisdiction.

A civil appeal is perfected when the notice of appeal is filed. TEX.R.APP.P. 26.1; *Restrepo v. First Nat'l Bank of Dona Ana County, N.M.*, 892 S.W.2d 237, 238 (Tex.App.-- El Paso 1995, no pet.)(applying former TEX.R.APP.P. 40(a)(1)). When no motion for new trial or request for findings of fact and conclusions of law is filed, the notice of appeal must be filed within thirty days after the judgment is signed. TEX.R.APP.P. 26.1; *Restrepo*, 892 S.W.2d at 238. When a motion for new trial is timely filed, the notice of appeal is due within ninety days after the judgment is signed. See TEX.R.APP.P. 26.1(a)(1). An untimely notice of appeal will be considered timely if it is filed within fifteen days after the due date and includes a reasonable explanation for the Appellant's failure to file on the due date. See TEX.R.APP.P. 26.3; *Verburgt*

v. Dorner, 959 S.W.2d 615, 617 (Tex. 1997).

The judgment in this case was signed on November 19, 2007. Appellant filed a timely motion for new trial on December 19, 2007. Thus, the notice of appeal was due no later than February 17, 2008. Appellant did not file a notice of appeal until March 6, 2008. Therefore, Appellant's notice of appeal was not timely filed. By letter dated March 7, 2008, the clerk of this Court notified Appellant of our intent to dismiss the case for want of jurisdiction because the appeal had not been perfected. TEX.R.APP.P. 42.3. Appellant has not responded to the clerk's notice. Accordingly, we dismiss the appeal for want of jurisdiction.

May 15, 2008

DAVID WELLINGTON CHEW, Chief Justice

Before Chew, C.J., McClure, and Carr, JJ.