



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

IN THE MATTER	§	No. 08-13-00282-CV
OF THE GUARDIANSHIP	§	Appeal from the
OF SOCORRO MIRANDA,	§	Probate Court No. 2
AN INCAPACITATED PERSON.	§	of El Paso County, Texas
	§	(TC# 2012-CGD01716)
	§	

**MEMORANDUM OPINION**

Pending before the Court is a motion to dismiss and amended motion to dismiss filed by Appellee Yolanda Pirk. Finding that Appellant, Luis Miranda, did not timely file notice of appeal, we grant the motion and dismiss the appeal for lack of jurisdiction.

A civil appeal is perfected when the notice of appeal is timely filed. TEX.R.APP.P. 25.1, 26.1; *see Restrepo v. First National Bank of Dona Ana County, N.M.*, 892 S.W.2d 237, 238 (Tex.App.--El Paso 1995, no writ). The notice of appeal must be filed within 30 days after the judgment or appealable order is signed or within 90 days if any party timely files a motion for new trial. TEX.R.APP.P. 26.1(a)(1). The motion for new trial is due to be filed within thirty days after the judgment is signed. TEX.R.CIV.P. 329b(a). The appellate court may extend the time to file the notice of appeal if, within fifteen days after the deadline passes, the appellant files (1) the

notice of appeal in the trial court and (2) a motion for extension of time complying with Rule of Appellate Procedure 10.5(b) in the appellate court. TEX.R.APP.P. 26.3; *see* TEX.R.APP.P. 10.5(b); *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

The trial court signed the appealable order on July 11, 2013. Thus, the deadline for filing the notice of appeal or motion for new trial was no later than August 10, 2013. Appellant did not file his motion for new trial until August 19, 2013. Consequently, the untimely motion for new trial did not extend the deadline for filing the notice of appeal. Appellant's notice of appeal filed on September 23, 2013 was untimely and did not perfect the appeal. Further, it is outside the 15-day window for obtaining an extension of time to file the notice of appeal.

The Clerk's Office notified Appellant by letter of the Court's intent to dismiss the appeal for lack of jurisdiction. Appellant responded by filing a motion to amend the notice of appeal. In his motion, Appellant stated that he erroneously believed the trial court entered judgment on August 22, 2013. Appellant's motion does not provide this Court with any basis for finding it has jurisdiction of the appeal. Accordingly, we deny Appellant's motion to file an amended notice of appeal as moot and grant Appellee's motion to dismiss. Appellee's request for attorney's fees is denied. The appeal is dismissed.

GUADALUPE RIVERA, Justice

October 18, 2013

Before McClure, C.J., Rivera, and Rodriguez, JJ.