

Except as permitted by Article 42.14, sentence must be pronounced in the defendant's presence. TEX.CODE CRIM.PROC.ANN. art 42.03, § 1(a).¹ Because Appellant absconded during trial and has not been apprehended, the trial court could not pronounce sentence. *See id.* In a criminal case, the appellate timetable does not begin to run until the date sentence is imposed in open court. *See* TEX.R.APP.P. 26.2(a). The defendant's notice of appeal is due to be filed within thirty days after the day sentence is imposed in open court or within ninety days if the defendant timely files a motion for new trial. *See* TEX.R.APP.P. 26.2(a). The notice of appeal filed by counsel on Appellant's behalf is premature and it will be effective and deemed filed on the same day sentence is imposed or suspended in open court. *See* TEX.R.APP.P. 27.1. While we have in some cases allowed an appeal to remain pending when a notice of appeal is prematurely filed in order to allow the parties and the trial court to take those steps necessary for the judgment to become final and appealable, there is nothing to indicate that Appellant will be taken into custody or that his sentence will be pronounced in open court within a reasonable period of time. No purpose is served by allowing this premature appeal to remain pending on our docket. Accordingly, we grant counsel's motion to withdraw and dismiss the appeal for lack of jurisdiction.

February 7, 2019

YVONNE T. RODRIGUEZ, Justice

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

(Do Not Publish)

¹ The circumstances described by Article 42.14 are not present in this case.