



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

ED SANCHEZ D/B/A DELUXE AUTO SERVICES,	§	No. 08-22-00220-CV
	§	Appeal from the
Appellant,	§	County Court at Law #2
V.	§	of Travis County, Texas
CEDRICK THOMAS,	§	(TC# C-1-CV-19-009616)
Appellee.		

MEMORANDUM OPINION

This appeal is before the Court on its own motion to determine whether the appeal should be dismissed for want of jurisdiction. Finding that Appellant did not timely file his 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 writ) (per curiam) (applying former TEX. R. APP. P. 40(a)(1)). The notice of appeal must be filed within thirty days after the judgment is signed unless the appellant files a timely motion for new trial. TEX. R. APP. P. 26.1. (a)(1). If such motion for new trial is filed, the notice of appeal must be filed within ninety days after the judgment is signed. *Id.* To be timely, the motion for new trial must be filed within thirty days after the judgment or other appealable order is signed. TEX.

R. CIV. P. 329b(a). Still, a notice of appeal is considered timely, if filed within fifteen days of the due date and accompanied by a reasonable explanation for the failure to file on the date due. *Vergburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

Appellant filed a notice of appeal on September 30, 2022, attempting to appeal the trial court's final judgment rendered on June 6, 2022. The notice of appeal further stated that a motion for new trial was filed on July 5, 2022. As a result, Appellant's notice of appeal was due to be filed on September 5, 2022. Yet, Appellant did not file it until September 30, 2022, more than fifteen days late. A timely notice of appeal is essential to invoking this Court's jurisdiction. *See* TEX. R. APP. P. 25.1(b), 26.1.

On October 27, 2022, the Clerk of this Court sent Appellant a letter regarding the filing of the notice of appeal because we were concerned it was not timely perfected. The letter gave notice of our intent to dismiss for want of jurisdiction, within 10 days, unless grounds were shown for the Court to continue the appeal. *See* TEX. R. APP. P. 10.5(b), 26.3(b), 42.3(a). To date, no response has been filed or received responding to or otherwise providing grounds for continuing this appeal. Accordingly, we find that Appellant failed to perfect his appeal because he filed the notice of appeal outside of the applicable time limits. This appeal is dismissed for want of jurisdiction. *See* TEX. R. APP. P. 26.1, 42.3(a), (c), 43.2(f).

GINA M. PALAFOX, Justice

November 9, 2022

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