

Opinion filed May 23, 2013



In The

Eleventh Court of Appeals

No. 11-13-00135-CR

ERNEST ROCHA, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 104th District Court

Taylor County, Texas

Trial Court Cause No. 17889B

MEMORANDUM OPINION

The jury convicted Appellant, Ernest Rocha, of the offense of indecency with a child, found the enhancement allegation to be true, and assessed punishment at confinement for fifteen years. We dismiss the appeal.

Appellant's sentence was imposed on June 21, 2012. No motion for new trial was filed. Appellant's pro se notice of appeal was filed on April 18, 2013,

301 days after the date sentence was imposed. This court notified Appellant by letter dated April 25, 2013, that the notice of appeal appeared to be untimely. We requested that Appellant respond and show grounds for continuing this appeal. We also informed Appellant that the appeal may be dismissed for want of jurisdiction.

In response to our letter, Appellant filed a motion in this court requesting an extension of time to file an out-of-time appeal. Pursuant to TEX. R. APP. P. 26.2(a)(1), the notice of appeal must be filed within thirty days after the day sentence is imposed. In this case, the due date was July 23, 2012. For an extension, TEX. R. APP. P. 26.3 mandates that the notice of appeal and the motion for extension must be filed within fifteen days after the deadline for filing the notice of appeal. Neither the notice of appeal nor the motion for extension was timely filed. Absent a timely filed notice of appeal or the granting of a timely motion for extension of time, we do not have jurisdiction to entertain the appeal. *Slaton v. State*, 981 S.W.2d 208 (Tex. Crim. App. 1998); *Olivo v. State*, 918 S.W.2d 519 (Tex. Crim. App. 1996); *Rodarte v. State*, 860 S.W.2d 108 (Tex. Crim. App. 1993). We have no jurisdiction to grant Appellant's motion for extension. *See Olivo*, 918 S.W.2d 519.

Accordingly, Appellant's motion for extension of time to file his notice of appeal is overruled, and the appeal is dismissed for want of jurisdiction.

PER CURIAM

May 23, 2013

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
McCall, J., and Willson, J.