

Opinion filed June 30, 2017



In The

# Eleventh Court of Appeals

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No. 11-17-00150-CV

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**JAMES THOMAS LOTT JR., Appellant**

**V.**

**PATRICIA ELAINE LOTT, Appellee**

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**On Appeal from the 318th District Court  
Midland County, Texas  
Trial Court Cause No. FM-60,409**

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## MEMORANDUM OPINION

On May 31, 2017, James Thomas Lott Jr. filed in the trial court a notice of appeal in which he sought to appeal a final decree of divorce that was signed by the trial court on September 19, 2016. When the appeal was docketed in this court, we notified Appellant by letter that it appeared to this court that the notice of appeal was untimely filed, and we requested that Appellant respond and show grounds to continue the appeal.

Appellant promptly responded to this court’s letter. In his response, Appellant asserts that the terms of the divorce decree are unacceptable, that he did not receive notice of the trial, and that he did not receive notice of the decree until May 2017. When a party fails to receive timely notice of an appealable order, Rule 306a.4 of the Texas Rules of Civil Procedure extends the time in which a notice of appeal may be filed. However, “in no event shall such periods begin more than ninety days after the original judgment or other appealable order was signed.” TEX. R. CIV. P. 306a.4.

The documents on file in this appeal show that, on September 19, 2016, the trial court signed a final decree of divorce, which was a final, appealable order. Ninety days from that date was December 18, 2016. Thus, even if Rule 306a.4 applied, the latest possible due date for Appellant’s notice of appeal was thirty days after December 18, which would have been January 17, 2017. *See* TEX. R. APP. P. 26.1. Appellant did not file his notice of appeal until May—well after the deadline. Absent a timely notice of appeal, this court is without jurisdiction to consider this appeal. *See Wilkins v. Methodist Health Care Sys.*, 160 S.W.3d 559, 564 (Tex. 2005); *Garza v. Hibernia Nat’l Bank*, 227 S.W.3d 233, 233–34 (Tex. App.—Houston [1st Dist.] 2007, no pet.); *see also Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Because we are without jurisdiction, we must dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

This appeal is dismissed for want of jurisdiction.

PER CURIAM

June 30, 2017

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