

Opinion filed January 10, 2019



In The
Eleventh Court of Appeals

No. 11-18-00330-CR

PAUL TORRES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 106th District Court
Gaines County, Texas
Trial Court Cause No. 10-4100**

MEMORANDUM OPINION

Appellant, Paul Torres, has filed an untimely notice of appeal in this cause. Appellant attempts to appeal from an order denying his motion for forensic DNA testing. We dismiss the appeal.

The documents on file in this case indicate that the order was signed on September 10, 2018, and that the notice of appeal was filed in the district clerk's office on November 26, 2018. Appellant's notice of appeal was due to be filed within thirty days after the date that the trial court entered the order. *See* TEX. R.

APP. P. 26.2(a)(1); *see also* TEX. CODE CRIM. PROC. ANN. art. 64.05 (West 2018). A notice of appeal must be in writing and filed with the clerk of the trial court. TEX. R. APP. P. 25.2(c)(1). The documents on file in this court reflect that Appellant's notice of appeal was filed seventy-seven days after the order was entered. The notice of appeal was, therefore, untimely. 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 this appeal. *See Swearingen v. State*, 189 S.W.3d 779, 781 (Tex. Crim. App. 2006); *see also Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); *Olivo v. State*, 918 S.W.2d 519, 522–23 (Tex. Crim. App. 1996); *Rodarte v. State*, 860 S.W.2d 108, 110 (Tex. Crim. App. 1993).

When the appeal was filed in this court, we notified Appellant by letter that the notice of appeal appeared to be untimely and that the appeal may be dismissed for want of jurisdiction. We requested that Appellant respond to our letter and show grounds to continue. Appellant filed a response but has not shown any grounds upon which this appeal may proceed.

We dismiss this appeal for want of jurisdiction.

PER CURIAM

January 10, 2019

Do not publish.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

Panel consists of: Bailey, C.J.,
Willson, J., and Wright, S.C.J.¹

Willson, J., not participating.

¹Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.