

Opinion filed September 30, 2021



In The
Eleventh Court of Appeals

No. 11-21-00217-CR

JESSE RAY STEWART, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 35th District Court
Brown County, Texas
Trial Court Cause No. CR24102**

MEMORANDUM OPINION

The trial court adjudicated Appellant, Jesse Ray Stewart, guilty of the offense of tampering with or fabricating physical evidence and assessed Appellant's punishment at imprisonment for three years. Appellant attempts to appeal his conviction. However, because the notice of appeal was not timely filed, we dismiss the appeal.

Pursuant to the Texas Rules of Appellate Procedure, a notice of appeal is due to be filed either (1) within thirty days after the date that sentence is imposed or

suspended in open court or (2) if the defendant timely files a motion for new trial, within ninety days after the date that sentence is imposed or suspended in open court. TEX. R. APP. P. 26.2(a). 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 appeal indicate that Appellant's sentence was imposed on August 5, 2021; that Appellant filed his notice of appeal on September 17, 2021, forty-three days after his sentence was imposed; and that no motion for new trial was filed. The notice of appeal was therefore untimely.

On September 20, when the appeal was docketed in this court, we notified Appellant that the notice of appeal appeared to be untimely, that a motion for an extension of time to file the notice of appeal was due to be filed in this court on or before September 22, 2021, and that the appeal may be dismissed for want of jurisdiction absent such a motion. No motion for extension or other response to this court's September 20 letter has been filed by Appellant.

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. *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). Because the notice of appeal was not timely filed, we have no jurisdiction over this appeal and must dismiss it. *See Slaton*, 981 S.W.2d at 210.

Accordingly, we dismiss this appeal for want of jurisdiction.

PER CURIAM

September 30, 2021

Do not publish.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

Panel consists of: Bailey, C.J.,
Trotter, J., and Williams, J.