

Opinion filed April 21, 2022



In The
Eleventh Court of Appeals

No. 11-22-00062-CR

RICHARD CERDA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 350th District Court
Taylor County, Texas
Trial Court Cause No. 14078-D**

MEMORANDUM OPINION

Appellant, Richard Cerda, entered an open plea of guilty to the third-degree felony offense of driving while intoxicated. Appellant pled true to the enhancement allegations, and the trial court assessed Appellant’s punishment at imprisonment for thirty-five years. Appellant, though recognizing that “time has r[u]n out” for his appeal, nonetheless attempts to appeal his conviction. Because the notice of appeal was not timely filed, we must 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 December 21, 2021, that no motion for new trial was timely filed, and that Appellant filed his pro se notice of appeal on March 21, 2022—ninety days after his sentence was imposed. 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 an 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.

When the appeal was docketed in this court, we notified Appellant that the notice of appeal appeared to be untimely, and we informed him that this appeal may be dismissed for want of jurisdiction. We requested that Appellant file a response showing grounds upon which this appeal could continue. Appellant has not filed any response in this court.

We dismiss this appeal for want of jurisdiction.

April 21, 2022

PER CURIAM

Do not publish.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

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