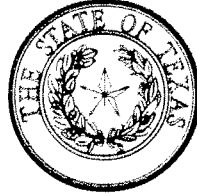


DISMISS; Opinion issues January 25, 2013.



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-12-01638-CV

IN THE INTEREST OF H.M., A CHILD

On Appeal from the 380th Judicial District Court
Collin County, Texas
Trial Court Cause No. 380-54170-2009

MEMORANDUM OPINION

Before Justices Lang-Miers, Myers, and Lewis
Opinion By Justice Lang-Miers

This is an appeal from the trial court's August 24, 2012 order in suit to modify the parent-child relationship. Father, who timely filed a motion for new trial, filed his notice of appeal on December 6, 2012. The notice was filed outside the ninety-day period allowed under the rules of appellate procedure but within the fifteen day period in which an extension motion setting forth a reasonable explanation for the delay may be filed. *See* TEX. R. APP. P. 10.5(b), 26.1(a), 26.3. Because Father had not moved for an extension or otherwise provided a reasonable explanation for the late filing, we directed him to file an extension motion by December 21, 2012. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). To date, Father has not filed the motion or otherwise corresponded with the Court.

The timely filing of a notice of appeal is jurisdictional. *See* TEX. R. APP. P. 25.1(b); *Garza*

v. Hibernia Nat'l Bank, 227 S.W.3d 233, 233 (Tex. App.—Houston [1st Dist.] 2007, no pet.). Because Father's notice of appeal was untimely and he has failed to provide a reasonable explanation for the delay, we lack jurisdiction over this appeal. *See Garza*, 227 S.W.3d at 233. Accordingly, we dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).


ELIZABETH LANG-MIERS
JUSTICE

121638F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

IN THE INTEREST OF H.M., A CHILD

No. 05-12-01638-CV

Appeal from the 380th Judicial District Court
of Collin County, Texas. (Tr.Ct.No. 380-
54170-2009).

Opinion delivered by Justice Lang-Miers,
Justices Myers and Lewis participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal. We **ORDER** that appellee Catherine Gonzalez recover her costs, if any, of this appeal from appellant Joel Merkins.

Judgment entered January 25, 2013.


ELIZABETH LANG-MIERS
JUSTICE