

Dismissed and Opinion Filed January 25, 2013



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

No. 05-13-00077-CR

No. 05-13-00078-CR

No. 05-13-00079-CR

No. 05-13-00080-CR

MICHAEL WHALEY, Appellant

v.

THE STATE OF TEXAS, Appellee

On Appeal from the 282nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F91-45041, F92-36477, F92-36482, F93-01488

OPINION

Before Justices Bridges, O'Neill and Murphy
Opinion by Justice O'Neill

Michael Whaley was convicted of two aggravated robberies, engaging in organized criminal activity, and aggravated assault. For the aggravated assault conviction, punishment was assessed at ten years' imprisonment and a \$300 fine. Punishment in the remaining cases was set at forty years' imprisonment, and a \$750 fine was assessed for one of the aggravated robberies and the engaging in organized criminal activity convictions. Sentence was imposed in open court on June 9, 1993. The convictions were affirmed on direct appeal. *Whaley v. State*, No. 11-

93-00127-CR (Tex. App. —Eastland Dec. 9, 1993, no pet.).¹ On January 15, 2013, appellant filed a pro se “motion for notice of appeal.” We conclude we lack jurisdiction over the appeals.

“Jurisdiction concerns the power of a court to hear and determine a case.” *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). The jurisdiction of an appellate court must be legally invoked, and, if not, the power of the court to act is as absent as if it did not exist. *See id.* at 523. To invoke the court’s jurisdiction, an appellant must file his notice of appeal within the time period provided by the rules of appellate procedure. *See id.*; *see also Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. App. 1998) (per curiam).

Sentence was imposed in these cases on June 9, 1993. Appellant has already had one direct appeal from his convictions. Nothing in his notice of appeal or the documents before the Court indicates that the trial court issued any new, appealable orders, and the January 15, 2013 notice of appeal is untimely as to the June 9, 1993 sentencing date. *See TEX. R. APP. P.* 26.2(a)(1). Therefore, we lack jurisdiction over the appeals. *See Olivo*, 918 S.W.2d at 523.

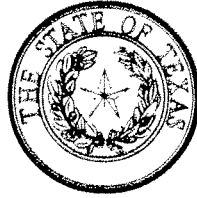
We dismiss the appeals for want of jurisdiction.


MICHAEL J. O'NEILL
JUSTICE

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TEX. R. APP. P. 47

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¹ The appeals were originally filed in this Court, but were transferred to the Eastland Court of Appeals pursuant to a Texas Supreme Court docket equalization order.



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

JUDGMENT

Michael Whaley, Appellant

No. 05-13-00077-CR V.

The State of Texas, Appellee

On Appeal from the 282nd Judicial District
Court, Dallas County, Texas

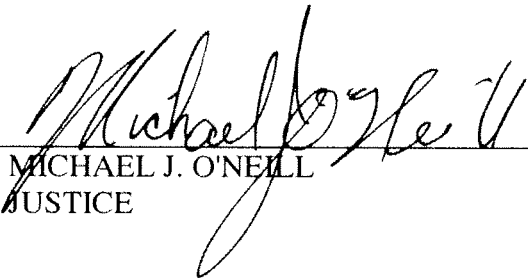
Trial Court Cause No. F91-45041.

Opinion delivered by Justice O'Neill,

Justices Bridges and Murphy participating.

Based on the Court's opinion of this date, we **DISMISS** the appeal for want of jurisdiction.

Judgment entered this 25th day of January, 2013.



MICHAEL J. O'NEILL
JUSTICE



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

JUDGMENT

Michael Whaley, Appellant

No. 05-13-00078-CR V.

The State of Texas, Appellee

On Appeal from the 282nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F92-36477.

Opinion delivered by Justice O'Neill,

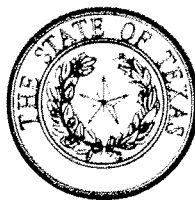
Justices Bridges and Murphy participating.

Based on the Court's opinion of this date, we **DISMISS** the appeal for want of jurisdiction.

Judgment entered this 25th day of January, 2013.



MICHAEL J. O'NEILL
JUSTICE



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

JUDGMENT

Michael Whaley, Appellant

No. 05-13-00079-CR V.

The State of Texas, Appellee

On Appeal from the 282nd Judicial District
Court, Dallas County, Texas

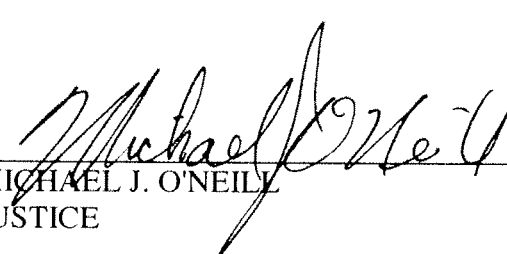
Trial Court Cause No. F92-36482.

Opinion delivered by Justice O'Neill,

Justices Bridges and Murphy participating.

Based on the Court's opinion of this date, we **DISMISS** the appeal for want of jurisdiction.

Judgment entered this 25th day of January, 2013.


MICHAEL J. O'NEILL
JUSTICE



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

JUDGMENT

Michael Whaley, Appellant

No. 05-13-00080-CR V.

The State of Texas, Appellee

On Appeal from the 282nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F93-01488.

Opinion delivered by Justice O'Neill,

Justices Bridges and Murphy participating.

Based on the Court's opinion of this date, we **DISMISS** the appeal for want of jurisdiction.

Judgment entered this 25th day of January, 2013.



MICHAEL J. O'NEILL
JUSTICE