

DISMISS; Opinion issued May 6, 2013



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

**No. 05-13-00542-CR
No. 05-13-00543-CR**

**JOSE MORENO, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 5
Dallas County, Texas
Trial Court Cause Nos. F12-54982-L, F12-70797-L**

MEMORANDUM OPINION

**Before Justices O'Neill, Francis, and Fillmore
Opinion by Justice Francis**

Jose Moreno was convicted of two aggravated assault with a deadly weapon offenses. Punishment, enhanced by one prior felony conviction, was assessed at imprisonment for twenty years in each case. The sentences were imposed in open court on February 20, 2013. No timely motions for new trial were filed; therefore, appellant's notices of appeal were due by March 22, 2013. *See* TEX. R. APP. P. 26.2(a)(1). Appellant's pro se notice of appeal is hand-dated April 11, 2013 and is file-stamped April 19, 2013. The envelope in which it was mailed is post-marked either April 12 or 17, 2013. *See* TEX. R. APP. P. 9.2(b).

Assuming, without deciding, that the pro se notice of appeal was delivered to jail authorities for mailing on or before April 12, 2013, it would have been considered filed within the fifteen-day extension period provided by rule 26.3. *See* TEX. R. APP. P. 26.3(a); *Campbell v.*

State, 320 S.W.3d 338, 344 (Tex. Crim. App. 2010). However, to obtain the benefit of the extension period, appellant also had to file an extension motion in this Court within that same fifteen-day period. See TEX. R. APP. P. 26.3(b); *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (per curiam); *Boyd v. State*, 971 S.W.2d 603, 605–06 (Tex. App.—Dallas 1998, no pet.). Appellant did not file a motion to extend time to file his notices of appeal in this Court.

Because appellant’s April 11, 2013 pro se notice of appeal is untimely as to the February 20, 2013 sentencing date, we have no jurisdiction over the appeals.

We dismiss the appeals for want of jurisdiction.

/Molly Francis/
MOLLY FRANCIS
JUSTICE

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TEX. R. APP. P. 47
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

JOSE MORENO, Appellant

No. 05-13-00542-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 5, Dallas County, Texas

Trial Court Cause No. F12-54982-L.

Opinion delivered by Justice Francis,

Justices O'Neill and Fillmore participating.

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

Judgment entered May 6, 2013.

/Molly Francis/

MOLLY FRANCIS

JUSTICE



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Fifth District of Texas at Dallas**

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JUSTICE