

DISMISSED and Opinion Filed March 16, 2018.



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

No. 05-17-01340-CR

No. 05-17-01341-CR

**CHARLES RAY WILLIAMS, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 2
Dallas County, Texas
Trial Court Cause Nos. F14-75623-I, F14-75616-I**

MEMORANDUM OPINION

Before Justices Bridges, Evans, and Whitehill
Opinion by Justice Whitehill

Charles Ray Williams appeals the trial court's judgments adjudicating his guilt for offenses of aggravated sexual assault and sexual assault. We dismiss the appeals for want of jurisdiction.

The records show appellant was sentenced on August 28, 2017. The records do not reflect the filing of a motion for new trial. In a criminal case where no motion for new trial has been filed, an appellant invokes the jurisdiction of this Court by filing a written notice of appeal within thirty days after the date sentence was imposed. *See* TEX. R. APP. P. 25.2(b), (c), 26.2(a). Thus appellant's notice of appeal was due no later than September 27, 2017.

On October 27, 2017, appellant filed a form motion requesting credit for back time. At the bottom of the motion, appellant hand wrote "How can I get an appeal fast I'am Innocent go to prison. {Ask my Judge Please} Please Help!" This document, which constitutes the notice of

appeal in these cases, was mailed from the county jail in an envelope with an October 3, 2017 postmark. The notice of appeal was not transmitted to the Court until November 22, 2017.

By letter dated January 17, 2018, the Clerk of the Court informed the parties that the Court questioned its jurisdiction over the appeals in light of the untimely notice of appeal. The Clerk's letter specifically raised the issue of whether appellant could qualify for the "prisoner mailbox rule" because his notice of appeal was mailed from the county jail. *See Campbell v. State*, 320 S.W.3d 338, 343–44 (Tex. Crim. App. 2010) (notice of appeal filed by pro se prisoner considered filed at time document tendered to prison authorities for mailing). The Clerk directed the parties to file letter briefs addressing the Court's jurisdictional questions and, if necessary, a supplemental record for any necessary information not already in the appellate record. Both parties responded to the Clerk's directive.

On January 29, 2018, appellant filed a motion to extend the time to file his notice of appeal. On January 30, 2018, appellant filed a letter brief conceding that his pro se notice of appeal was untimely, but arguing that it was filed within the fifteen-day period for requesting an extension of time to file a notice of appeal and appellant was unaware that he needed to file for an extension. Appellant faults the trial court clerk for not forwarding the notice of appeal to this Court in a timely manner and further represents that appellate counsel was not appointed until December 8, 2017. Appellant requests that the Court grant his extension motion and consider the pro se notice of appeal timely. Appellant did not invoke the prisoner mailbox rule or provide any evidentiary basis for applying it to his cases. The State responds that appellant's notice of appeal and motion for extension of time to file his notice of appeal are untimely, and the Court does not have jurisdiction over the appeals. We agree with the State.

The appellate court may grant an extension to file a notice of appeal if, within fifteen days after the due date for the notice of appeal, the prospective appellant files in the trial court a written

notice of appeal and files in the appellate court a motion to extend the time to file the notice of appeal. *See* TEX. R. APP. P. 10.5(b)(2), 26.3. The filing of a notice of appeal that complies with the time deadlines of rule 26 is essential to vest this Court with jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (per curiam); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). When a defendant files a notice of appeal within the fifteen-day extension period, but no timely motion for extension of time is filed, the appellate court lacks jurisdiction. *Olivo*, 918 S.W.2d at 523. When the notice of appeal does not trigger the Court's jurisdiction, the Court has no option other than to dismiss the appeal. *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012); *Olivo*, 918 S.W.2d at 523.

Because both appellant's notice of appeal and his motion for extension were untimely, and he has not claimed that the prisoner mailbox rule applies, we conclude we have no jurisdiction over these appeals. *See* TEX. R. APP. P. 26.2(a), 26.3; *Castillo*, 369 S.W.3d at 198; *Olivo*, 918 S.W.2d at 523. Appellant's January 29, 2018 motion for extension of time to file notice of appeal is denied as untimely.

We dismiss the appeals.

/Bill Whitehill/

BILL WHITEHILL
JUSTICE

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

JUDGMENT

CHARLES RAY WILLIAMS, Appellant

No. 05-17-01340-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court

No. 2, Dallas County, Texas

Trial Court Cause No. F14-75623-I.

Opinion delivered by Justice Whitehill.

Justices Bridges and Evans participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered this 16th day of March, 2018.



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

JUDGMENT

CHARLES RAY WILLIAMS, Appellant

No. 05-17-01341-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court

No. 2, Dallas County, Texas

Trial Court Cause No. F14-75616-I.

Opinion delivered by Justice Whitehill.

Justices Bridges and Evans participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

Judgment entered this 16th day of March, 2018.