

Dismiss and Opinion Filed July 25, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00182-CV

WILLIAM CARR, Appellant
V.
ATLAS GC WORLDWIDE, LLC, Appellee

On Appeal from the 298th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-17-06357

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Evans, and Justice Brown
Opinion by Chief Justice Wright

This Court questioned its jurisdiction over this appeal as it appeared the notice of appeal was untimely. We instructed appellant to file a letter brief addressing the issue with an opportunity for appellee to respond. The parties complied.

In his notice of appeal, appellant states he is appealing from the trial court's September 29, 2017 judgment nunc pro tunc and the trial court's January 5, 2018 order denying his motion for new trial. An order denying a motion for new trial is not an independently appealable order with a separate timetable for appeal. *See State Office of Risk Mgmt. v. Berdan*, 335 S.W.3d 421, 428 (Tex. App.—Corpus Christi 2011, pet. denied); *Denton County v. Huther*, 43 S.W.3d 665, 667 (Tex. App.—Fort Worth 2001, no pet.).

If a party files a timely post-judgment motion extending the appellate timetable, the notice of appeal is due ninety days after the date the judgment is signed. *See* TEX. R. APP. P. 26.1(a). Without a timely notice of appeal, this Court lacks jurisdiction. *See id.* 25.1(b).

The appealed judgment was signed on September 27, 2017. Appellant filed a timely motion for new trial on October 6, 2017. Accordingly, the notice of appeal was due on December 26, 2017, ninety days after the date the judgment was signed. *See* TEX. R. APP. P. 26.1(a). Appellant filed a notice of appeal on February 7, 2018, forty-three days past the deadline.

Appellant fails to address the timeliness of the notice of appeal in his letter brief. Rather, he asserts this Court has jurisdiction because the appealed order is void for various reasons. Appellant's assertions that the appealed judgment is void do not alter the deadline for filing a notice of appeal. Because appellant failed to timely file a notice of appeal, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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

JUDGMENT

WILLIAM CARR, Appellant

No. 05-18-00182-CV V.

ATLAS GC WORLDWIDE, LLC,
Appellee

On Appeal from the 298th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DC-17-06357.

Opinion delivered by Chief Justice Wright.
Justices Evans and Brown participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee ATLAS GC WORLDWIDE, LLC recover its costs of this appeal from appellant WILLIAM CARR.

Judgment entered July 25, 2018.