

Dismissed; Opinion Filed September 14, 2018.



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

No. 05-18-00661-CV

IN THE INTEREST OF J.D.W., A CHILD

**On Appeal from the 397th Judicial District Court
Grayson County, Texas
Trial Court Cause No. FA— 17-0690**

MEMORANDUM OPINION

Before Justices Myers, Evans, and Brown
Opinion by Justice Myers

This appeal follows the entry of an April 18, 2018 judgment for child support arrearage and April 30, 2018 order in suit affecting the parent-child relationship. No request for findings of fact and conclusions of law or motion for new trial or to modify judgment was filed after either the judgment or order. The notice of appeal does not state the subject of the appeal and was filed more than thirty days from the date of judgment and order, on June 4, 2018. *See* TEX. R. APP. P. 26.1 (requiring notice of appeal be filed within thirty days of judgment unless certain exceptions, not applicable here, apply). However, under Texas Rule of Appellate Procedure 26.3, the notice could be deemed timely as to both the judgment and order if a motion were filed reasonably explaining why the notice was late. *See id.* 4.1(a), 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

We gave appellant an opportunity to file an extension motion, but more than ten days have passed and no motion has been filed. Without a motion reasonably explaining the need for an extension, we cannot deem the notice of appeal timely filed. *See Verburgt*, 959 S.W.2d at 617. And without a timely filed notice, we have no jurisdiction over the appeal. *See Brashear v. Victoria Gardens of McKinney, L.L.C.*, 302 S.W.3d 542, 545 (Tex. App.—2009, no pet.) (op. on reh'g). Accordingly, we dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

/Lana Myers/
LANA MYERS
JUSTICE

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

JUDGMENT

IN THE INTEREST OF J.D.W., A CHILD

No. 05-18-00661-CV

On Appeal from the 397th Judicial District
Court, Grayson County, Texas
Trial Court Cause No. FA— 17-0690.
Opinion delivered by Justice Myers,
Justices Evans and Brown participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** appellee Timothy Lee Wilson recover his costs, if any, of this appeal from appellant Dana Jaynea Wilson.

Judgment entered this 14th day of September, 2018.