

**Dismiss and Opinion Filed September 12, 2018**



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

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**No. 05-18-00699-CV**

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**BOBBY JOE EVENS, Appellant  
V.  
VEDA MICHELLE EVENS, Appellee**

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**On Appeal from the 256th Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DF-17-24977**

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**MEMORANDUM OPINION**

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

This appeal from the trial court's February 21, 2018 final decree of divorce was filed June 14, 2018. Because the record reflected appellant timely filed a motion for new trial, the notice of appeal was due no later than May 22, 2018 or, with an extension motion, no later than June 6, 2018. *See* TEX. R. APP. P. 26.1(a)(1), 26.3.

At our direction, the parties filed letter briefs addressing our jurisdiction in light of the late-filed notice of appeal. *See Brashear v. Victoria Gardens of McKinney, L.L.C.*, 302 S.W.3d 542, 545 (Tex. App.—Dallas 2009, no pet.) (op. on reh'g) (timely filing of notice of appeal is jurisdictional). Appellee also filed two motions to dismiss, one asserting lack of a live controversy and the other one based on the untimely notice of appeal.

In his letter brief, appellant states he did not prepare his notice of appeal for filing until June 11, 2018 and explains why he was unable to do so earlier. Although his explanation could support an extension motion if the notice of appeal had been filed within the extension period, it was filed outside that period. *See* TEX. R. APP. P. 26.1(a)(1), 26.3. Accordingly, we grant appellee's motion based on the untimely notice of appeal and dismiss the appeal. *See id.* 42.3(a); *Brashear*, 302 S.W.3d at 545.

/Carolyn Wright/  
CAROLYN WRIGHT  
CHIEF JUSTICE

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

**JUDGMENT**

BOBBY JOE EVENS, Appellant

No. 05-18-00699-CV      V.

VEDA MICHELLE EVENS, Appellee

On Appeal from the 256th Judicial District  
Court, Dallas County, Texas

Trial Court Cause No. DF-17-24977.

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

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

Judgment entered September 12, 2018.