

DISMISS and Opinion Filed December 12, 2018



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

No. 05-18-01461-CR

HENRY CHAVEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the Criminal District Court No. 1
Dallas County, Texas
Trial Court Cause No. F18-00225-H**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Myers, and Justice Stoddart
Opinion by Chief Justice Wright

Henry Chavez appeals his conviction for unlawful possession of a firearm by a felon. After appellant pleaded guilty under a plea bargain agreement with the State, the trial court found him guilty and assessed punishment, enhanced by a prior felony conviction, at ten years in prison. Appellant then filed this appeal.

A defendant perfects his appeal by timely filing a written notice of appeal with the trial court clerk. *See* TEX. R. APP. P. 25.2(c). To be timely, the notice of appeal must be filed within thirty days after the date sentence was imposed or within ninety days after sentencing if the defendant timely filed a motion for new trial. *See* TEX. R. APP. P. 26.2(a). In the absence of a timely perfected notice of appeal, the Court must dismiss the appeal. *Ex parte Castillo*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012).

In this case, the trial court entered judgment on July 9, 2018. Because appellant did not file a motion for new trial, appellant's notice of appeal was due on August 8, 2018. *See* TEX. R. APP. P. 26.2(a)(1). Appellant's notice of appeal was not filed until December 5, 2018. *See* TEX. R. APP. P. 25.2(c)(1). Under these circumstances, we conclude appellant's notice of appeal was untimely and we must dismiss the appeal.¹

We dismiss the appeal for want of jurisdiction.

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

Do Not Publish
TEX. R. APP. P. 47.2(b)
181461F.U05

¹ We also note that under the plea bargain agreement, appellant waived his right to appeal, and the trial court certified that appellant waived his right to appeal. *See* TEX. R. APP. P. 25.2; *Dears v. State*, 154 S.W. 3d 610, 613 (Tex. Crim. App. 2005) (holding when right to appeal is waived in plea bargain between defendant and State, and trial court certifies defendant waived right, court of appeals lacks jurisdiction and must dismiss appeal)..



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

JUDGMENT

HENRY CHAVEZ, Appellant

No. 05-18-01461-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 1, Dallas County, Texas
Trial Court Cause No. F18-00225-H.
Opinion delivered by Chief Justice Wright.
Justices Myers and Stoddart participating.

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

Judgment entered December 12, 2018.