

DISMISS; and Opinion Filed August 20, 2019.



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

No. 05-19-00538-CR

**LYRON HAYES, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 2
Dallas County, Texas
Trial Court Cause No. F16-70299-I**

MEMORANDUM OPINION

Before Justices Whitehill, Partida-Kipness, and Pedersen, III
Opinion by Justice Pedersen, III

Lyron Hayes appeals his conviction for assault family violence, enhanced with two prior convictions. Although appellant was initially placed on deferred adjudication, the State filed a motion to proceed to adjudication. Appellant pleaded not true to the allegations in the motion, but on December 17, 2018, the trial court found the allegations true, adjudicated guilt, and assessed punishment at ten years in prison. In a letter dated January 20, 2019, appellant contacted the trial court regarding a possible appeal. The trial court appointed counsel, and appellant's notice of appeal was filed April 23, 2019. After the clerk's record in the appeal was filed, we notified appellant and the State that we had concerns regarding our jurisdiction, specifically noting that appellant's notice of appeal was due January 16, 2019. Appellant did not respond; the State agreed that we lack jurisdiction.

A timely filed notice of appeal is required to invoke this Court's jurisdiction. *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012). In the absence of a timely filed notice of appeal, the Court has no option other than to dismiss the appeal. *Id.* A defendant perfects an appeal by filing with the trial court clerk, 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, a written notice of appeal showing his desire to appeal. *See* TEX. R. APP. P. 25.2(b), (c), 26.2(a).

Appellant's sentence was imposed on December 17, 2018, making his notice of appeal due no later than January 16, 2019. *See* TEX. R. APP. P. 26.2(a)(1). His letter indicating his desire to appeal was dated January 20, 2019 and postmarked January 22, 2019. Although the letter is sufficient to be considered a notice of appeal, it was untimely, and no motion to extend time to file the notice of appeal was filed in this Court. As a result, we lack jurisdiction over this appeal. *See Castillo*, 369 S.W.3d at 198, 202.

We dismiss this appeal.

/Bill Pedersen, III/

BILL PEDERSEN, III
JUSTICE

Do Not Publish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

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

JUDGMENT

LYRON HAYES, Appellant

No. 05-19-00538-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 2, Dallas County, Texas

Trial Court Cause No. F16-70299-I.

Opinion delivered by Justice Pedersen, III.

Justices Whitehill and Partida-Kipness
participating.

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

Judgment entered this 20th day of August, 2019.