

DISMISS; and Opinion Filed August 16, 2019.



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

No. 05-19-00949-CR

**MICHAEL DANTE GARRETT, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 292nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. F92-39878-WV**

MEMORANDUM OPINION

Before Justices Schenck, Osborne, and Reichek
Opinion by Justice Osborne

Michael Dante Garrett appeals his conviction for aggravated robbery with a deadly weapon. After finding appellant guilty, the jury assessed punishment at 99 years in prison and a \$10,000 fine. On February 26, 2019 appellant filed a “Notice of Out of Time Appeal for Illegal Sentence” that was forwarded to and filed in this Court on August 12, 2019.

The appropriate vehicle for seeking an out-of-time appeal is by writ of habeas corpus from the Texas Court of Criminal Appeals filed under article 11.07 of the code of criminal procedure. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07; *see Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (explaining that writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure governs out-of-time appeals from felony convictions). This Court has no jurisdiction to grant out-of-time appeals.

To the extent we were to construe his motion as a notice of appeal, we note that 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, we have 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 was convicted on July 20, 1994; absent a timely filed motion for new trial, his notice of appeal was due no later than August 19, 1994. However, this document was filed with the district clerk on February 26, 2019, depriving us of jurisdiction.

Because we lack jurisdiction, we dismiss this appeal.

/Leslie Osborne/
LESLIE OSBORNE
JUSTICE

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TEX. R. APP. P. 47.2(b)

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

JUDGMENT

MICHAEL DANTE GARRETT, Appellant

No. 05-19-00949-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F92-39878-WV.

Opinion delivered by Justice Osborne,
Justices Schenck and Reichel participating.

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

Judgment entered this 16th day of August, 2019.