

Dismiss and Opinion Filed August 24, 2021



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

No. 05-21-00686-CR

**JOSEPH WAYNE HUNTER, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 265th Judicial District Court
Dallas County, Texas
Trial Court Cause No. F13-56295-R**

MEMORANDUM OPINION

Before Justices Schenck, Reichel, and Carlyle
Opinion by Justice Carlyle

Joseph Wayne Hunter seeks to challenge the trial court's January 15, 2021 denial of his motion for forensic DNA testing and for the appointment of counsel. On August 9, 2021, he filed a motion for an extension of time to file his notice of appeal. We dismiss this appeal.

Our appellate jurisdiction is triggered through a timely notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). If a notice of appeal is not timely filed, we do not have jurisdiction to address the merits of the appeal and may take no action other than dismissal. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); TEX. R. APP. P. 26.2(a). An appeal from the denial of a motion for DNA

testing is treated in the same manner as an appeal from any other criminal matter. TEX. CODE CRIM. PROC. art. 64.05. Rule 26.2(a) requires that, absent a timely motion for new trial, a notice of appeal must be filed within thirty days after the date the trial court enters an appealable order. Appellant did not file his notice of appeal within thirty days of the trial court's order because, according to him, he did not receive timely notice of the trial court's ruling. However, appellant's assertion of lack of timely notice does not affect our appellate timetable. *See Davis v. State*, 502 S.W.3d 803, 803 (Tex. Crim. App. 2016); *Ex parte Suhre*, 185 S.W.3d 898, 899 (Tex. Crim. App. 2006).

Because we have no jurisdiction, we dismiss the appeal. *See* TEX. R. APP. P. 43.2(f).

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

/Cory L. Carlyle/

CORY L. CARLYLE
JUSTICE



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

JUDGMENT

JOSEPH WAYNE HUNTER,
Appellant

No. 05-21-00686-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 265th Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F13-56295-R.
Opinion delivered by Justice Carlyle.
Justices Schenck and Reichek
participating.

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

Judgment entered this 24th day of August, 2021.