

DISMISS and Opinion Filed February 9, 2022



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

No. 05-21-00998-CV

**LESTER JON RUSTON, Appellant
V.
CITY OF CARROLLTON, Appellee**

**On Appeal from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-07-03314**

MEMORANDUM OPINION

Before Justices Myers, Molberg, and Garcia
Opinion by Justice Molberg

In his notice of appeal filed on November 9, 2021, appellant states that he is appealing from a 2015 order dismissing the underlying case.¹ Despite the fact that his appeal is untimely, appellant requests that we consider it, asserting that he has a constitutional right to an out-of-time appeal.

Due to the untimely notice of appeal, we questioned our jurisdiction, directed appellant to file, by December 28, 2021, a letter brief addressing our concern, and

¹ The trial court's December 2, 2015 order of dismissal is viewable on the trial court's website.

cautioned him that failure to comply may result in dismissal of the appeal without further notice. As of today's date, appellant has not complied.

When a party does not file a timely post-judgment motion extending the appellate timetable, a notice of appeal is due thirty days after the date of the judgment or, with an extension motion, fifteen days after the deadline. *See* TEX. R. APP. P. 26.1(a); 26.3. Without a timely filed notice of appeal, this Court lacks jurisdiction. *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).

Appellant filed his notice of appeal almost six years late. Although appellant urges us to consider his out-of-time appeal, we may not alter the time for perfecting an appeal in a civil case. *See* TEX. R. APP. P. 2. For these reasons, we deny appellant's request for an out-of-time appeal and dismiss the appeal for lack of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

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/Ken Molberg//
KEN MOLBERG
JUSTICE



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

JUDGMENT

LESTER JON RUSTON, Appellant

No. 05-21-00998-CV V.

CITY OF CARROLLTON, Appellee

On Appeal from the 160th Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DC-O7-03314.
Opinion delivered by Justice
Molberg. Justices Myers and Garcia
participating.

In accordance with this Court's opinion of this date, the appeal is
DISMISSED.

It is **ORDERED** that appellee CITY OF CARROLLTON recover its costs of
this appeal from appellant LESTER JON RUSTON.

Judgment entered this 9th day of February, 2022.