

DISMISS and Opinion Filed July 14, 2022



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

No. 05-22-00630-CR

**CINTHYA ARBALLO RODRIGUEZ, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the County Court at Law No. 4
Collin County, Texas
Trial Court Cause No. 004-85395-2021**

MEMORANDUM OPINION

Before Justices Myers, Nowell, and Smith
Opinion by Justice Smith

On June 24, 2022, Cinthya Arballo Rodriguez filed a notice of appeal. Along with the notice of appeal, the Court received a copy of the trial court's February 10, 2022 order placing her on deferred adjudication and the trial court's certification stating appellant waived her right to appeal. We will dismiss this appeal.

"Jurisdiction concerns the power of a court to hear and determine a case." *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). The jurisdiction of an appellate court must be legally invoked; if not, the power of the court to act is absent as if it did not exist. *See id.* at 523. The right to appeal in a criminal case is a statutorily created right. *See McKinney v. State*, 207 S.W.3d 366, 374 (Tex. Crim.

App. 2006); *Griffin v. State*, 145 S.W.3d 645, 646 (Tex. Crim. App. 2004). *See also* TEX. CODE CRIM. PROC. ANN. art. 44.02 (providing right of appeal for defendant); TEX. R. APP. P. 25.2(a)(2) (rules for appeal by defendant).

A timely-filed notice of appeal vests the courts of appeals with jurisdiction. *Olivo*, 918 S.W.2d at 522. Absent a timely filed motion for new trial, appellant's notice of appeal was due on March 14, 2022. *See* TEX. R. APP. P. 4.1(a), 26.2(a)(2). If she filed a timely motion for new trial, the notice of appeal was due on May 11, 2022. Under either scenario, appellant's June 23, 2022 notice of appeal is untimely.

Because the notice of appeal was untimely, we dismiss this appeal for lack of jurisdiction.

/Craig Smith/
CRAIG SMITH
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

CINTHYA ARBALLO
RODRIGUEZ, Appellant

No. 05-22-00630-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court at
Law No. 4, Collin County, Texas
Trial Court Cause No. 004-85395-
2021.

Opinion delivered by Justice Smith.
Justices Myers and Nowell
participating.

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

Judgment entered July 14, 2022