

Opinion issued November 6, 2008



**In The  
Court of Appeals  
For The  
First District of Texas**

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**NO. 01-06-00902-CR**

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**FLOYD PLEASANT TARVIN, IV, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Criminal Court at Law No. 8  
Harris County, Texas  
Trial Court Cause No. 950948**

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**MEMORANDUM OPINION**

We lack jurisdiction to hear this appeal. Appellant, Floyd Pleasant Tarvin, IV, pleaded no contest to the misdemeanor offense of driving while intoxicated. On July

22, 1987, the trial court assessed appellant's punishment at confinement for 30 days and a \$100 fine. On the same date, the trial court signed a final judgment in cause number 950948.

On April 12, 2006, appellant filed a pro se document, in trial court cause number 950948, styled "petitioner's motion to vacate and set aside offense and conviction." The document alleges that appellant did not waive his right to a jury trial and that he was denied the right to a jury trial. We construe the April 12, 2006 "motion to vacate and set aside offense and conviction" as a notice of appeal.

Appellant was sentenced on July 22, 1987. Notice of appeal was due 30 days after sentencing, August 21, 1987. The notice of appeal was filed on April 12, 2006, 6,839 days after the deadline for filing. Thus, the appeal is untimely. *See* TEX. R. APP. P. 26.2. Because an untimely notice of appeal fails to vest an appellate court with jurisdiction, this appeal must be dismissed. *Slaton v. State*, 981 S.W.2d 208, 209-10 (Tex. Crim. App. 1998); *Strange v. State*, 258 S.W.3d 184, 605-06 (Tex. App.—Houston [1st Dist.] 2007, pet. ref'd.) (citing *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *Douglas v. State*, 987 S.W.2d 605, 605-06 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

Accordingly, this appeal is dismissed for lack of jurisdiction.

We deny all pending motions as moot.

It is so **ORDERED**.

**PER CURIAM**

Panel consists of Justices Jennings, Hanks, and Bland.

Do not publish. TEX. R. APP. P. 47.4.