

Opinion issued May 1, 2008



In The
Court of Appeals
For The
First District of Texas

NO. 01-07-01071-CR

DELISA MARIE RUSSELL, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 338th District Court
Harris County, Texas
Trial Court Cause No. 1132134**

MEMORANDUM OPINION

We lack jurisdiction to hear this appeal. Appellant, Delisa Marie Russell, pleaded guilty to the offense of assault on a public servant and, in accordance with her plea bargain agreement with the State the trial court sentenced her to confinement

for two years. On October 31, 2007, the trial court signed a final judgment in this case. Appellant did not file a motion for new trial, and therefore the deadline for filing a notice of appeal was 30 days after sentencing. *See* TEX. R. APP. P. 26.2(a)(1). Because the thirtieth day after sentencing fell on a weekend, the deadline for filing notice of appeal was Monday, November 1, 2007. *See* TEX. R. APP. P. 4.1(a), 26.2(a)(1).

Appellant filed a pro se notice of appeal on December 5, 2007, four days after the deadline. Although the notice of appeal was filed within the 15-day time period for filing a motion for extension of time to file notice of appeal, no such motion for extension of time was filed. *See* TEX. R. APP. P. 26.3.

An untimely notice of appeal fails to vest the appellate court with jurisdiction to hear the case. *Slaton v. State*, 981 S.W.2d 208, 209-10 (Tex. Crim. App. 1998); *Douglas v. State*, 987 S.W.2d 605, 605-06 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

We therefore dismiss the appeal for lack of jurisdiction.

All pending motions are **denied as moot**.¹

¹ Appellant filed a pro se document with this Court stating that she wanted “to cancel her appeal.” Because the document is not signed by appellant, it does not comply with the requirements for a motion to dismiss an appeal as set out in Rule 42.2(a) of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.2(a).

It is so **ORDERED**.

PER CURIAM

Panel consists of Justices Taft, Keyes, and Alcala.

Do not publish. TEX. R. APP. P. 47.2(b).