

Opinion issued December 15, 2011.



In The
Court of Appeals
For The
First District of Texas

NO. 01-11-00327-CV

Z. H.

V.

DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

On Appeal from the 313th District Court
Harris County, Texas
Trial Court Cause No. 2009-05607J

MEMORANDUM ORDER

Appellant, Z. H., attempts to appeal from the trial court's April 22, 2010 final decree terminating her parental rights to the minor child who is the subject of this suit and granting sole managing conservatorship of the minor child to the Department of Family and Protective Services.

An appeal from a judgment terminating parental rights is an accelerated appeal. TEX. FAM. CODE ANN. §§ 109.002(a), 263.405(a) (Vernon 2008). In an accelerated appeal, absent a motion to extend time under Texas Rule of Civil Procedure 26.3, “the deadline for filing a notice of appeal is strictly set at twenty days after the judgment is signed, with no exceptions. . . .” *In re K.A.F.*, 160 S.W.3d 923, 927 (Tex. 2005); *see* TEX. R. APP. P. 26.1(b). A motion for extension of time to file the notice of appeal must be filed within fifteen days after the twenty-day deadline for filing a notice of appeal. *See* TEX. R. APP. P. 26.3; *K.A.F.*, 160 S.W.3d at 927. A motion for new trial does not extend the appellate deadlines in a case in which the Texas Department of Family and Protective Services has filed a suit requesting termination of parental rights. *See* TEX. FAM. CODE ANN. § 263.405(c); *In re A.J.K.*, 116 S.W.3d 165, 167 (Tex. App.—Houston [14th Dist.] 2003, no pet.).

Because the trial court signed the decree on April 22, 2010, appellant’s notice of appeal was due May 12, 2010. Appellant filed her notice of appeal April 21, 2011, which was almost one year after the decree was signed. Appellant did not file a motion for extension of time to file a notice of appeal within the fifteen-day period. *See* TEX. R. APP. P. 26.3. In fact, she did not file any motion for extension of time. Hence, appellant’s notice of appeal was untimely. *See K.A.F.*, 160 S.W.3d at 927.

In the absence of a timely notice of appeal, we lack jurisdiction over the attempted appeal and therefore can take no action other than to dismiss the appeal. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997); *see, e .g., In re J.A.G.*, 92 S.W.3d 539, 539–40 (Tex. App.—Amarillo 2002, no pet.) (dismissing appeal because notice of appeal was not filed within twenty days after termination order was signed).

On May 23, 2011, the Department filed a motion to dismiss the appeal as untimely filed. Appellant did not file a response addressing this issue. *See* TEX. R. APP. P. 42.3(b) (allowing involuntary dismissal on any party’s motion).

Accordingly, appellant’s appeal is dismissed for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a), 43.2(f).

PER CURIAM

Panel consists of Chief Justices Radack and Justices Bland and Huddle.