

Opinion issued January 9, 2018



In The
Court of Appeals
For The
First District of Texas

NO. 01-17-00909-CR

TONY TAYLOR, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 339th District Court
Harris County, Texas
Trial Court Cause No. 1515327

MEMORANDUM OPINION

Appellant, Tony Taylor, pleaded guilty to the state-jail felony offense of theft of property, with a value greater than \$2,500 and less than \$30,000, and pleaded true to two enhancement paragraphs alleging prior convictions, with an agreed

punishment recommendation of four years' confinement.¹ In accordance with his plea bargain with the State, the trial court found appellant guilty and assessed his punishment at four years' confinement on July 31, 2017.² The trial court certified that this was a plea-bargain case and that appellant had no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2). Appellant did not file a pro se notice of appeal until November 10, 2017, at which time the trial court appointed appellate counsel. *See id.* 26.2(a)(1). We dismiss this appeal for want of jurisdiction.

A criminal defendant's notice of appeal must be filed within thirty days after the sentence is imposed, or within ninety days after the sentence is imposed if the defendant has timely filed a motion for new trial. *See* TEX. R. APP. P. 26.2(a). The time for filing a notice of appeal may be extended if, within fifteen days of the deadline for filing the notice of appeal, an appellant files both a notice of appeal and a motion for an extension of time to file the notice of appeal. *See id.* 26.3; *Douglas v. State*, 987 S.W.2d 605, 606 (Tex. App.—Houston [1st Dist.] 1999, no pet.) (“The limited, 15-day extended time period applies to both the notice and the motion for extension; both must be filed within the 15-day time period.”). A notice of appeal that complies with the requirements of rule 26 is essential to vest the court of appeals with jurisdiction. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998);

¹ *See* TEX. PENAL CODE ANN. § 31.03(a), (e)(4)(A) (West 2016).

² *See* TEX. PENAL CODE ANN. §§ 12.34(a), 12.35(c)(2) (West 2016).

Olivo v. State, 918 S.W.2d 519, 522–23 (Tex. Crim. App. 1996). If an appeal is not timely perfected, a court of appeals does not obtain jurisdiction to address the merits of the appeal. *See Slaton*, 981 S.W.2d at 210.

Here, the trial court signed appellant’s judgment of conviction on July 31, 2017, and imposed the sentence on that date. Appellant did not file a motion for new trial, and thus, his deadline to file his notice of appeal remained thirty days after the imposition of sentence, or August 30, 2017. *See* TEX. R. APP. P. 26.2(a). Appellant’s notice of appeal was not filed until November 16, 2017, one hundred and eight days after the sentence was imposed. Under these circumstances, we can take no action other than to dismiss this appeal for want of jurisdiction.³ *See Slaton*, 981 S.W.2d at 210; *Olivo*, 918 S.W.2d at 526.

Accordingly, we dismiss this appeal for want of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Keyes, Brown, and Lloyd.

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

³ Moreover, even if appellant had timely appealed, this appeal must be dismissed because the trial court’s certification states that this was a plea-bargained case and appellant had no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2), (d). The clerk’s record, filed in this Court on December 12, 2017, supports the trial court’s certification. *See Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005).