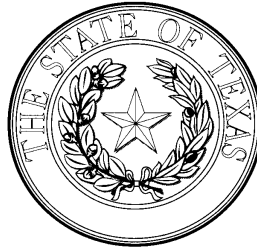


Opinion issued August 30, 2018



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

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NO. 01-18-00537-CR

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**EDGAR BENJAMIN GREEN, Appellant**  
V.  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 180th District Court**  
**Harris County, Texas**  
**Trial Court Case No. 1357965**

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**MEMORANDUM OPINION**

Pursuant to an agreement with the State, appellant, Edgar Benjamin Green, pleaded guilty to the felony offense of possession of cocaine, weighing more than

one gram and less than four grams.<sup>1</sup> On December 6, 2012, the trial court found appellant guilty, assessed his punishment at confinement for five years, and certified that this case “is a plea-bargain case and [appellant] has NO right of appeal.” On June 5, 2018, appellant filed a pro se notice of appeal.

We dismiss the appeal for lack of jurisdiction.

We cannot exercise jurisdiction over an appeal without a timely filed notice of appeal. *See Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *see also* TEX. R. APP. P. 26.2(a). A defendant’s notice of appeal is timely if filed within thirty days after the date sentence is imposed or suspended in open court or within ninety days after that date if the defendant timely files a motion for new trial. TEX. R. APP. P. 26.2(a); *see Bayless v. State*, 91 S.W.3d 801, 806 (Tex. Crim. App. 2002); *Lair v. State*, 321 S.W.3d 158, 159 (Tex. App.—Houston [1st Dist.] 2010, pet. ref’d). And, this Court has no authority to allow the late filing of a notice of appeal except as provided by Texas Rule of Appellate Procedure 26.3; *Olivo*, 918 S.W.2d at 522–23.

Here, the trial court imposed sentence and signed the judgment of conviction on December 6, 2012. The clerk’s record filed in this Court does not show that appellant filed a motion for new trial. *See* TEX. R. APP. P. 21.4(a). Appellant’s

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<sup>1</sup> *See* TEX. HEALTH & SAFETY CODE ANN. §§ 481.102(3)(D), 481.115(a), (c) (Vernon 2017 & Supp. 2017).

notice of appeal, therefore, was due to be filed no later than January 7, 2013. *See id.* 4.1, 26.2(a)(1); *Olivo*, 918 S.W.2d at 522. His notice of appeal, filed five and one-half years later, on June 5, 2018, was untimely to perfect an appeal of the December 6, 2012 judgment, and we have no basis for jurisdiction over the appeal. *See Olivo*, 918 S.W.2d at 522; *Lair*, 321 S.W.3d at 159.

Accordingly, we dismiss the appeal for want of jurisdiction. We dismiss any pending motions as moot.

**PER CURIAM**

Panel consists of Justices Jennings, Higley, and Massengale.

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