

Opinion issued December 13, 2018



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

NO. 01-18-00585-CV

DWIGHT PATTERSON, Appellant

V.

PINE VILLAGE NORTH HOMEOWNERS ASSOCIATION, Appellee

**On Appeal from the 215th District Court
Harris County, Texas
Trial Court Case No. 2016-79007**

MEMORANDUM OPINION

Appellant, Dwight Patterson, has filed a notice of appeal of the trial court's order dismissing the underlying trial court case for want of prosecution, signed on July 10, 2017. We dismiss the appeal for want of jurisdiction.

Generally, a notice of appeal is due within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. The deadline to file a notice of appeal is extended to ninety days after the date the judgment is signed if, within thirty days after the judgment is signed, any party timely files a motion for new trial, motion to modify the judgment, motion to reinstate, or, under certain circumstances, a request for findings of fact and conclusions of law. *See* TEX. R. APP. P. 26.1(a); TEX. R. CIV. P. 296, 329b(a), (g). The time to file a notice of appeal also may be extended if, within fifteen days after the deadline to file the notice of appeal, a party properly files a motion for extension. *See* TEX. R. APP. P. 10.5(b), 26.3. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day extension period provided by rule 26.3. *See* TEX. R. APP. P. 26.1, 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

Here, the trial court signed a final order dismissing the case on July 10, 2017. The clerk's record filed in this Court does not reflect that appellant filed a post-judgment motion or a request for findings of fact and conclusions of law, which would have extended the time to file a notice of appeal. Accordingly, appellant's notice of appeal was due by August 9, 2017, or by August 24, 2017, with a fifteen-day extension. *See* TEX. R. APP. P. 4.1, 26.1(a), 26.3; *Verburgt*, 959 S.W.2d at 617. Appellant untimely filed his notice of appeal on July 2, 2018. Without a

timely filed notice of appeal, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1.

On October 2, 2018, the Clerk of this Court notified appellant that his appeal was subject to dismissal for want of jurisdiction unless, by October 16, 2018, he filed a written response showing how this Court has jurisdiction over this appeal. *See* TEX. R. APP. P. 42.3(a). Appellant has not responded.

Accordingly, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a), 43.2(f). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Higley, Lloyd, and Caughey.