

Opinion issued November 24, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00317-CR

EX PARTE JAMES EDWARD DEMAIO, APPELLANT

**On Appeal from County Court at Law No. 2
Williamson County, Texas¹
Trial Court Case No. 19-2204-CC2**

MEMORANDUM OPINION

Appellant, James Edward DeMaio, proceeding pro se, attempts to appeal from the trial court's order denying his application for writ of habeas corpus,

¹ Pursuant to its docket equalization authority, the Supreme Court of Texas transferred this appeal to this Court. *See* Misc. Docket No. 19-9120 (Tex. Dec. 20, 2019); *see also* TEX. GOV'T CODE § 73.001 (authorizing transfer of cases).

signed on March 2, 2020. Appellant filed a notice of appeal on April 2, 2020. Appellee, the State of Texas filed a motion to dismiss for lack of jurisdiction.

We cannot exercise jurisdiction over an appeal without a timely filed notice of appeal. *See* TEX. R. APP. P. 26.2(a); *see also* *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012) (citation omitted); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Appeals of orders denying criminal habeas corpus relief also require timely notices of appeal. *Ex parte Nelson*, 01-17-00152-CR, 2017 WL 1149214, at *2 (Tex. App.—Houston [1st Dist.] Mar. 28, 2017, no pet.) (mem. op., not designated for publication); *Ex parte Alali*, No. 01-15-00796-CR, 2015 WL 6949240, at *1 (Tex. App.—Houston [1st Dist.] Nov. 10, 2015, no pet.) (mem. op., not designated for publication). 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, 805 (Tex. Crim. App. 2002); *Lair v. State*, 321 S.W.3d 158, 159 (Tex. App.—Houston [1st Dist.] 2010, pet. ref’d). Therefore, appellant’s notice of appeal was due April 1, 2020.

Accordingly, we grant appellee’s motion to dismiss and dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss all pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Lloyd and Kelly.

Do not publish.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