

Opinion issued November 16, 2021



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00488-CR

NELSON THOMAS II, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 176th District Court
Harris County, Texas
Trial Court Case No. 1597108

MEMORANDUM OPINION

Appellant, Nelson Thomas II, pleaded guilty to the felony offense of aggravated assault of a family member. On September 6, 2019, in accordance with appellant's plea agreement with the State, the trial court signed an order deferring adjudication of guilt and placing appellant on community supervision for four years.

Appellant, acting pro se, filed a notice of appeal on June 26, 2020. We dismiss the appeal.

In criminal cases, the appellant must file a notice of appeal “within 30 days after the day sentence is imposed.” TEX. R. APP. P 26.2(a)(1). Because the order appealed was signed on September 6, 2019, the deadline for filing the notice of appeal was October 7, 2019. Appellant’s notice of appeal was filed on June 26, 2020, over eight months after the deadline. If an appeal is not timely perfected, then a court of appeals does not obtain jurisdiction to address the merits of the appeal and can take no action other than to dismiss the appeal. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). Because appellant’s notice of appeal was untimely, we lack jurisdiction over this appeal. *See* TEX. R. APP. P. 25.1.

Moreover, in a plea-bargain case, a defendant may only appeal those matters that were raised by written motion filed and ruled on before trial or after getting the trial court's permission to appeal. TEX. CODE CRIM. PROC. art. 44.02; TEX. R. APP. P. 25.2(a)(2). An appeal must be dismissed if a certification showing that the defendant has the right of appeal has not been made part of the record. TEX. R. APP. P. 25.2(d); *see Dears v. State*, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005). Here, the clerk’s record supports the trial court’s certification that this is a plea-bargain case and that appellant has no right of appeal. *See* TEX. R. APP. P. 25.2(a)(2), (d); *Dears*, 154 S.W.3d at 615. Because appellant has no right of appeal, we must dismiss this appeal

without further action. *See Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006) (“A court of appeals, while having jurisdiction to ascertain whether an appellant who plea-bargained is permitted to appeal by Rule 25.2(a), must dismiss a prohibited appeal without further action, regardless of the basis for the appeal.”).

Accordingly, we dismiss this appeal for lack of jurisdiction. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Goodman, Rivas-Molloy, and Farris.

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