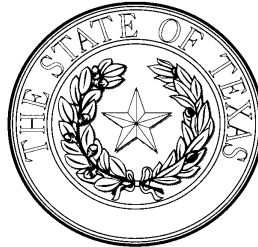


Opinion issued October 4, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-22-00599-CV

WEN LIAN H. PATIENCE, Appellant
V.
CHRISTINE HENDRICKS HODSON, Appellee

**On Appeal from the 458th District Court
Fort Bend County, Texas
Trial Court Case No. 22-DCV-290170**

MEMORANDUM OPINION

This is an appeal from a judgment signed on June 1, 2022, granting appellee Christine Hendricks Hodson's motion to dismiss pursuant to the Texas Citizen's Participation Act (TCPA). Appellant Wen Lian H. Patience filed a motion for new trial on July 1, 2022 and a notice of restricted appeal on August 17, 2022.

After a notice from this Court that appellant was not entitled to file a notice of restricted appeal because the record showed that appellant participated in the hearing that resulted in the trial court's judgment, appellant filed a regular notice of appeal and then filed a notice of accelerated appeal on September 12, 2022 and September 13, 2022, respectively. On September 15, 2022, this Court issued a notice of its intention to dismiss for lack of jurisdiction because the notice of appeal was not timely filed. We requested a response establishing that this Court had jurisdiction to be filed by September 26, 2022.

On September 20, 2022, appellant filed a collection of documents which we interpret to be her response to our September 15, 2022 notice. These documents include her amended motion for new trial filed in the trial court on September 20, 2022. But these documents do not establish our jurisdiction. On September 26, 2022, appellant filed a document entitled: "Petition for Permissive Interlocutory Appeal." Appellant stated in this document that she sought this Court's permission to take an interlocutory appeal of the trial court's June 1, 2022 order. But this Court may not grant permission to pursue an untimely appeal because, when the notice of appeal is untimely filed, we lack jurisdiction and must dismiss this appeal. *See Baker v. Baker*, 469 S.W.3d 269, 272 (Tex. App.—Houston [14th Dist.] 2015, no pet.).

An appeal from a judgment granting a motion to dismiss under the TCPA is an accelerated appeal. *See Spencer v. Pagliarulo*, 448 S.W.3d 605, 606 (Tex.

App.—Houston [1st Dist.] 2014, no pet.) (“An appeal from an ‘order on a motion to dismiss a legal action under Section 27.003’ of the Texas Civil Practice and Remedies Code is an accelerated appeal.”). A notice of accelerated appeal must be filed within 20 days from the date the order or judgment is signed or within 15 days of that deadline with a motion for extension of time to file the notice of appeal. *See* TEX. R. APP. P. 26.1(b), 26.3. The deadline to file a notice of accelerated appeal is not extended by the filing of a motion for new trial. *See* TEX. R. APP. P. 28.1(b); *In re K.A.F.*, 160 S.W.3d 923, 927 (Tex. 2005).

Because the trial court signed its judgment on June 1, 2022, the notice of accelerated appeal was due by June 21, 2022, or with a motion for extension of time to file the notice of appeal, by July 6, 2022. The clerk’s record indicates that the original notice of appeal was not filed until August 17, 2022 and was therefore, untimely filed. “The time for filing a notice of appeal is jurisdictional in nature, and absent a timely-filed notice of appeal or extension request, we must dismiss an appeal for lack of jurisdiction.” *Harris Cty. Toll Road Auth. v. Sw. Bell Tel., L.P.*, 263 S.W.3d 48, 53 (Tex. App.—Houston [1st Dist.] 2006, no pet.).

We dismiss this appeal for lack of jurisdiction. *See* TEX. R. APP. P. 42.3(a). Any pending motions are dismissed as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Landau and Hightower.