

Dismissed and Memorandum Opinion filed December 2, 2010.



In The
Fourteenth Court of Appeals

NO. 14-10-00762-CV

ROSELINE EMMA RASOLOVOAHANGY, Appellant

V.

ALDINE INDEPENDENT SCHOOL DISTRICT, Appellee

**On Appeal from the 281st District Court
Harris County, Texas
Trial Court Cause No. 2007-53404**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed February 3, 2010. No motion for new trial was filed. Appellant's notice of appeal was filed August 9, 2010.

The notice of appeal states this is a restricted appeal. However, the notice of appeal does not "state that the appellant is a party affected by the trial court's judgment but did not participate – either in person or through counsel – in the hearing that resulted in the judgment complained of." Tex. R. App. P. 25.1(d)(7)(A). Furthermore, the notice of

appeal is not verified by the appellant. Tex. R. App. P. 25.1(d)(7)(C). Appellant has not filed an amended notice of appeal. Tex. R. App. P. 25.1(f).

Additionally, the notice of appeal is untimely. The judgment was signed February 3, 2010. The notice of appeal was filed August 9, 2010. In a restricted appeal, the notice of appeal must be filed within six months. Appellant's notice of appeal is late, but filed within 15 days of the due date for the notice of appeal. A motion for extension of time is "necessarily implied" when the perfecting instrument is filed within fifteen days of its due date. *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Appellant did not file a motion to extend time to file the notice of appeal. While an extension may be implied, appellant is still obligated to come forward with a reasonable explanation to support the late filing. *See Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.).

On October 5, 2010, notification was transmitted to all parties of the court's intention to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). Appellant filed no response.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Anderson, Frost, and Brown.