

Dismissed and Memorandum Opinion filed February 10, 2011.



In The

Fourteenth Court of Appeals

NO. 14-10-01164-CV

JOSEPH C. KALATHOOR, Appellant

V.

MEHBOOB MOHAMMED, ET AL, Appellee

**On Appeal from County Civil Court at Law No. 2
Harris County, Texas
Trial Court Cause No. 941763**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed August 11, 2010. Appellant filed a timely motion for new trial. The notice of appeal was due November 9, 2010. *See* Tex. R. App. P. 26.1. Appellant, however, filed his notice of appeal on November 22, 2010, a date 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 present 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 January 7, 2011, appellant was ordered to file a proper motion to extend time to file the notice of appeal within ten days. *See* Tex. R. App. P. 26.3;10.5(b). Appellant was notified that if he did not comply with the order, the appeal would be dismissed. *See* Tex. R. App. P. 42.3. No response has been filed.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Anderson, Seymore, and McCally.