

**Motion Granted; Appeal Dismissed and Memorandum Opinion filed February 1, 2011.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-10-01223-CV**

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**KRISTINA S., Appellant**

**V.**

**CHARISMA R., Appellee**

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**On Appeal from the 125th District Court  
Harris County, Texas  
Trial Court Cause No. 2010-29216**

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**MEMORANDUM OPINION**

This is an attempted appeal from an order signed August 26, 2010. Appellant filed a timely motion to modify the order on September 17, 2010. Appellant filed a notice of appeal on December 19, 2010.

When appellant has filed a timely post-judgment motion, the notice of appeal must be filed within 90 days after the date the judgment is signed. *See* Tex. R. App. P. 26.1(a). Appellant's notice of appeal was not filed timely. A motion for extension of time is

necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617–18 (1997) (construing the predecessor to Rule 26). Appellant’s notice of appeal, however, was not filed within the fifteen-day period provided by rule 26.3

On January 14, 2011, appellee filed a motion to dismiss the appeal for want of jurisdiction. On January 24, 2011, appellant filed a response, which fails to demonstrate that this court has jurisdiction to entertain the appeal.

Accordingly, appellee’s motion is granted, and the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Anderson, Seymore, and McCally.