

Dismissed and Memorandum Opinion filed September 15, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00476-CV

JAMES E. WHITAKER, Appellant

V.

SOCIAL SECURITY ADMINISTRATION, Appellee

**On Appeal from the 189th District Court
Harris County, Texas
Trial Court Cause No. 2009-27703**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed December 21, 2009. Appellant's notice of appeal was filed May 23, 2011.

The notice of appeal must be filed within thirty days after the judgment is signed when appellant has not filed a timely motion for new trial, motion to modify the judgment, motion to reinstate, or request for findings of fact and conclusion of law. *See* Tex. R. App. P. 26.1.

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 was not filed within the fifteen-day period provided by Rule 26.3.

On August 16, 2011, 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 Frost, Seymore, and Jamison.