

Dismissed and Memorandum Opinion filed August 18, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00523-CV

CLAUDE ELDRIDGE IV, D/B/A PRO MASTERS COLLISION, Appellant

V.

JOHNSON PAINT SUPPLY, Appellee

**On Appeal from the 189th District Court
Harris County, Texas
Trial Court Cause No. 2010-18776**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed April 1, 2011. No motion for new trial was filed. Appellant's notice of appeal was not filed until June 1, 2011.

An appellant's notice of appeal must be filed within thirty days after the judgment is signed when the 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. Texas Rule of Appellate Procedure 26.3 permits an appellant to file a motion for extension of time to file his notice of appeal within fifteen days after the deadline for filing the notice of appeal. *See* Tex. R. App. P. 26.3. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal within the fifteen-day grace period provided by rule 26.3. *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, however.

On July 21, 2011, notification was transmitted to all parties of this court's intention to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). Appellant filed no response.

The appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Frost, Seymore, and Jamison.