

Dismissed and Memorandum Opinion filed August 28, 2012.



In The

Fourteenth Court of Appeals

NO. 14-12-00525-CV

DAVID BAILEY, Appellant

V.

MICHAEL CURIEL, Appellee

**On Appeal from the County Court at Law #3 & Probate Court
Brazoria County, Texas
Trial Court Cause No. CI046891**

M E M O R A N D U M O P I N I O N

This is an attempted appeal from a judgment signed December 9, 2011. No motion for new trial was filed. Appellant's notice of appeal was filed June 4, 2012.

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 Verburt v. Dorner*, 959 S.W.2d 615, 617-18 (1997) (construing the predecessor to Rule 26). However, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. *See* Tex. R. App. P. 26.3, 10.5(b)(1)(C); *Verburt*, 959 S.W.2d at 617-18; *Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.). Appellant's notice of appeal was not filed within the fifteen-day period provided by Rule 26.3

On July 9, 2012, 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's response fails to demonstrate that this Court has jurisdiction to entertain the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Seymore, Boyce, and McCally.