

**Motion Granted, Appeal Dismissed, and Memorandum Opinion filed July 2, 2015.**



**In The  
Fourteenth Court of Appeals**

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**NO. 14-15-00455-CV**

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**RODNEY UNDERWOOD, Appellant**

**V.**

**OCWEN LOAN SERVICING, GMAC MORTGAGE AND AMERICAN  
HOME MORTGAGE SERVICING INC., ET AL, Appellees**

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**On Appeal from the 11th District Court  
Harris County, Texas  
Trial Court Cause No. 2012-47388**

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**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 November 17, 2014. Appellant filed a timely motion for new trial on December 17, 2014. Appellant's notice of appeal was filed May 27, 2015. On June 10, 2015, appellee Ocwen Loan Servicing, LLC filed a motion to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). Appellant filed no response.

When appellant has 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, the notice of appeal must be filed within ninety 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). 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); *Verburgt*, 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.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Chief Justice Frost and Justices Jamison and Busby.