

Motion Granted; Motions Denied; Appeal Dismissed and Memorandum Opinion filed March 15, 2016.



In The

Fourteenth Court of Appeals

NO. 14-15-01047-CV

IN THE ESTATE OF SHERRY MARIE ARNOLD, DECEASED

**On Appeal from the Probate Court No. 4
Harris County, Texas
Trial Court Cause No. 361,038-401**

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

Appellant filed a notice of appeal on December 9, 2015. On January 6, 2016, appellee filed a motion to dismiss. On February 4, 2016, we directed the Harris County District Clerk to file a partial clerk's record in order that we might determine our jurisdiction. The record reflects the trial court signed a default judgment on December 16, 2011. No other appealable order was signed by the trial court.

Accordingly, appellant's notice of appeal was not filed timely. *See* Tex. R. App. P. 26.1. 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 15-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 15-day period provided by Rule 26.3.

On February 17, 2016, 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 demonstrating that this court has jurisdiction to entertain the appeal.

Appellee's motion to dismiss is granted and the appeal is ordered dismissed. Appellant's pending motions are denied.

PER CURIAM

Panel consists of Justices Christopher, McCally and Busby.