

Appeals Dismissed and Memorandum Opinion filed November 30, 2017.



In The
Fourteenth Court of Appeals

NO. 14-17-00855-CR
NO. 14-17-00856-CR

CHARLES RAY ANDRUS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 228th District Court
Harris County, Texas
Trial Court Cause Nos. 0981453 and 0982427

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

In Texas, appeals in criminal cases are permitted only when they are specifically authorized by statute. *State ex rel. Lykos*, 330 S.W.3d 904, 915 (Tex. Crim. App. 2011); *see* Tex. Code Crim. Proc. art. 44.02. Generally, a criminal defendant may only appeal from a final judgment. *See State v. Sellers*, 790 S.W.2d 316, 321 n. 4 (Tex. Crim. App. 1990). The courts of appeals do not have jurisdiction to review interlocutory orders in a criminal appeal absent express statutory authority.

Apolinar v. State, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991). *See also Ragston v. State*, 424 S.W.3d 49 (Tex. Crim. App. 2014).

On October 5, 2017, appellant filed a notice of appeal as to the “denial of petition of rehearing and mandate order issue[d] 9/6/17 and 9/14/17.” A review of the notice of appeal and record before this court suggests these orders were entered in *Charles Andrus v. Lorie Davis, Director*, Case No. 16-20722 in the United States Court of Appeals, Fifth Circuit. Further, the trial court clerk has certified to this court that the case files do not contain orders dated September 6, 2017 and September 14, 2017. Accordingly, our review of the record reveals no appealable orders dated September 6, 2017 or September 14, 2017.

As the specified orders are not part of the record, we liberally construe appellant’s notice of appeal as an appeal of the final judgment of conviction. We evaluate whether appellant’s notice of appeal was sufficient to invoke the jurisdiction of this court. *See Few v. State*, 230 S.W.3d 184, 190 (Tex. Crim. App. 2007).

Appellant was convicted of the offenses of burglary of a habitation with intent to commit theft and robbery. He was sentenced to confinement for thirty-five years in the Institutional Division of the Texas Department of Criminal Justice. Appellant’s sentence was imposed on July 23, 2004. The record before our court does not contain a timely motion for new trial filed in either case. Defendant’s present notice of appeal was filed October 5, 2017.¹

¹ We have previously concluded that a notice of appeal filed May 1, 2013 by appellant, in relation to the final judgments in these trial court actions, was untimely. *See Andrus v. State*, Nos. 14-13-00402-CR, 14-13-00403-CR, 2013 WL 2296191 (Tex. App.—Houston [14th Dist.] May 23, 2013, pet ref’d) (per curiam, not designated for publication).

A defendant's notice of appeal must be filed within thirty days after sentence is imposed when the defendant has not filed a motion for new trial. *See Tex. R. App. P. 26.2(a)(1)*. When a timely motion for new trial is filed, a defendant's notice of appeal must be filed within ninety days after sentence is imposed. *See Tex. R. App. P. 26.2(a)(2)*. A notice of appeal which complies with the requirements of Rule 26 is essential to vest the court of appeals with jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). If an appeal is not timely perfected, a court of appeals does not obtain jurisdiction to address the merits of the appeal. Under those circumstances it can take no action other than to dismiss the appeal. *Id.*

Accordingly, these appeals are dismissed.

PER CURIAM

Panel consists of Justices Christopher, Donovan, and Jewell.
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