

Dismissed and Memorandum Opinion filed December 20, 2022.



**In The
Fourteenth Court of Appeals**

NO. 14-22-00714-CV

JOHN SMITH, Appellant

V.

**KERVARA WILLIAMS INDIVIDUALLY AND A/N/F D.S., MINOR,
Appellee**

**On Appeal from the 151st District Court
Harris County, Texas
Trial Court Cause No. 2020-49535**

MEMORANDUM OPINION

This is an attempted appeal by appellant John Smith from a final judgment signed January 21, 2022. Appellee Kervara Williams individually and A/N/F for D.S., a minor, filed a timely request for findings of fact and conclusions of law. Smith's pro se notice of appeal was filed October 3, 2022.

When appellant has filed a timely post-judgment motion, the notice of appeal must be filed within 90 days after the date the judgment is signed. Tex. R. App. P. 26.1(a)(4).

Smith's notice of appeal was not timely filed. A motion to extend time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Texas Rule of Appellate Procedure 26.1, but within the 15-day grace period provided by Rule 26.3 for filing a motion to extend 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 Texas Rule of Appellate Procedure 26.3.

On October 5, 2022, Williams filed a motion to dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a). Smith filed no response. Williams's motion is GRANTED.

Accordingly, the appeal is dismissed.

PER CURIAM

Panel consists of Justices Zimmerer, Spain, and Hassan