

**Motion denied, Appeal dismissed, and Memorandum Opinion filed November 21, 2023.**



**In The**

**Fourteenth Court of Appeals**

---

**NO. 14-23-00629-CV**

---

**CAROLINA VILLARROEL OCHOA, FEDERICO EDUARDO OCHOA  
AND FEDERICO EDUARDO OCHOA D/B/A OCHOA CONSTRUCTION,  
Appellants**

**V.**

**SOUTHWESTERN BELL TELEPHONE COMPANY, Appellee**

---

**On Appeal from the 127th District Court  
Harris County, Texas  
Trial Court Cause No. 2022-00126**

---

**MEMORANDUM OPINION**

This is an attempted appeal from a judgment signed May 25, 2023. Appellants filed a timely motion for new trial on June 26, 2023. Appellant's notice of appeal was filed August 24, 2023.

When an 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. *See* Tex. R. App. P. 26.1(a).

Appellants' notice of appeal was not filed timely. 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 filed within that 15-day grace period. However, as appellants were still obligated to come forward with a reasonable explanation to support the late filing, on October 12, 2023, this court ordered appellants to file a proper notice of appeal within 10 days. *See Miller v. Greenpark Surgery Ctr. Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.). Appellants were further warned that the appeal was subject to dismissal without further notice for want of jurisdiction if they failed to do so.

On October 27, 2023, appellants filed a motion for extension of time to file their notice of appeal. Although the motion contains an explanation for why it was untimely filed, it does not contain any explanation for why the notice of appeal itself was untimely filed.

As appellants' motion fails to demonstrate this court can properly exercise jurisdiction over this appeal, we deny the motion and dismiss the appeal.

PER CURIAM

Panel consists of Justices Hassan, Poissant, and Wilson.