

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-08-00568-CR

Kevin **RICHARDSON** a/k/a Kevin Davis,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 186th Judicial District Court, Bexar County, Texas
Trial Court No. 2007-CR-4987
Honorable Maria Teresa Herr, Judge Presiding

PER CURIAM

Sitting: Alma L. López, Chief Justice
Catherine Stone, Justice
Karen Angelini, Justice

Delivered and Filed: October 1, 2008

DISMISSED FOR LACK OF JURISDICTION

Appellant was sentenced on June 30, 2008. Because appellant did not file a timely motion for new trial, his notice of appeal was due to be filed on July 30, 2008. *See* TEX. R. APP. P. 26.2(a). Appellant filed a notice of appeal in this court on July 28, 2008; however, he failed to file his notice of appeal with the trial court. *See Douglas v. State*, 987 S.W.2d 605, 605 & n.2. (Tex. App.—Houston [1st Dist.] 1999, no pet.) (dismissing appeal where notice of appeal was timely filed in appellate court but not in trial court and noting rule 25.1 contains saving provision for notices of

appeals mistakenly filed in appellate courts but only applies to appeals in civil cases). On August 4, 2008, appellant timely filed a motion requesting an extension of time to file his notice of appeal; however, he never filed his notice of appeal with the trial court.

On August 26, 2008, we ordered appellant to show cause in writing why this appeal should not be dismissed for want of jurisdiction. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (out-of-time appeal from final felony conviction may be sought by filing a writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure). Appellant failed to respond to our order. This appeal is dismissed for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH

