

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



**MEMORANDUM OPINION**

No. 04-10-00131-CR

Pete **RAMOS**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 227th Judicial District Court, Bexar County, Texas  
Trial Court No. 2000CR2381B  
Honorable Philip A. Kazen, Jr., Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice  
Steven C. Hilbig, Justice  
Marialyn Barnard, Justice

Delivered and Filed: March 3, 2010

DISMISSED FOR LACK OF JURISDICTION

After revoking appellant's probation, the trial court imposed sentence in the underlying cause on December 4, 2007. No timely motion for new trial having been filed, appellant's notice of appeal was due to be filed no later than January 3, 2008. *See* TEX. R. APP. P. 26.2. Appellant's notice of appeal was not filed in the trial court until January 25, 2010. This court lacks jurisdiction over an appeal of a criminal conviction in the absence of a timely, written notice of appeal. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *see also 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). Accordingly, this appeal is dismissed for lack of jurisdiction.<sup>1</sup>

PER CURIAM

DO NOT PUBLISH

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<sup>1</sup> Although appellant's notice of appeal was filed in this court on August 27, 2008, the notice of appeal would still have been untimely filed even if we could consider that date of filing. *But see Apt v. State*, No. 04-03-00885-CR, 2004 WL 730832, at \*1 (Tex. App.—San Antonio Apr. 7, 2004, no pet.) (unlike rule in civil cases, notice of appeal filed with appellate court in criminal case is not deemed filed the same day with the trial court clerk) (not designated for publication).