

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

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MEMORANDUM OPINION

No. 04-10-00728-CV

IN THE ESTATE OF JUANA CAMPOS GUERRERO, Deceased

From the County Court at Law, Kendall County, Texas
Trial Court No. 09-029-PR
Honorable Bill R. Palmer, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
 Karen Angelini, Justice
 Santee Bryan Marion, Justice

Delivered and Filed: December 22, 2010

DISMISSED FOR LACK OF JURISDICTION

The trial court signed an appealable order on June 1, 2010. Appellant filed a timely motion for new trial on June 29, 2010. Therefore, the notice of appeal was due to be filed August 30, 2010. *See* TEX. R. APP. P. 26.1(a). A motion for extension of time to file the notice of appeal was due on September 14, 2010. *See* TEX. R. APP. P. 26.3. Appellant filed a notice of appeal on October 13, 2010.

A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Rule 26.1 but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997) (construing the predecessor to Rule 26). But “once

the period for granting a motion for extension of time under Rule [26.3] has passed, a party can no longer invoke the appellate court's jurisdiction." *Id.*

Because it appeared that the notice of appeal was untimely filed, we ordered appellant to show cause in writing why this appeal should not be dismissed for lack of jurisdiction. Appellant did not respond to our order. Because the notice of appeal was untimely filed, this appeal is dismissed for lack of jurisdiction.

PER CURIAM