



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-12-00846-CR

Donna **GARCIA**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 144th Judicial District Court, Bexar County, Texas
Trial Court No. 2012CR6592W
Angus McGinty, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Justice
Marialyn Barnard, Justice
Rebeca C. Martinez, Justice

Delivered and Filed: April 3, 2013

DISMISSED FOR LACK OF JURISDICTION

The trial court imposed or suspended sentence on August 15, 2012. Because appellant did not file a motion for new trial, the notice of appeal was due to be filed September 14, 2012. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file the notice of appeal was due on September 29, 2012. Tex. R. App. P. 26.3. Appellant did not file a notice of appeal, but she filed a motion for extension of time on December 17, 2012. Because it appeared this court lacked jurisdiction over this appeal, we ordered appellant to show cause in writing why the appeal should not be dismissed. On March 21, 2013, appellant's attorney filed a Motion for

Leave of Court to Late File Notice of Appeal, asserting appellant was pro se and, at the time her notice of appeal was due, not represented by effective counsel.

This court lacks jurisdiction over an appeal of a criminal conviction in the absence of a timely, written notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *Shute v. State*, 744 S.W.2d 96, 97 (Tex. Crim. App. 1988); *see also Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (out-of-time appeal from felony conviction may be sought by filing a writ of habeas corpus pursuant to Texas Code of Criminal Procedure article 11.07). This appeal is therefore dismissed for lack of jurisdiction.

PER CURIAM

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