



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00087-CR

James M. **HANNINGTON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 290th Judicial District Court, Bexar County, Texas
Trial Court No. 1987CR2073
Honorable Sharon MacRae, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: February 13, 2013

DISMISSED FOR WANT OF JURISDICTION

In 1988, James M. Hannington pleaded guilty to felony credit card abuse pursuant to a plea bargain, and the court sentenced him to six years confinement, suspended imposition of the sentence and placed Hannington on probation for a period of six years. On June 10, 1991, the trial court revoked Hannington's probation and imposed a six year prison term. The judgment ordered the term to run consecutive to the prison term imposed in another cause. On January 28, 2013, Hannington filed a notice of appeal, challenging the 1991 sentence.

A timely notice of appeal is necessary to invoke a court of appeals' jurisdiction. *Rodarte v. State*, 860 S.W.2d 108 (Tex. Crim. App. 1993). When a defendant appeals a conviction and sentence, the notice of appeal is timely if filed within thirty days after the day sentence is imposed or suspended in open court, or within ninety days after sentencing if the defendant timely files a motion for new trial. *Id.* at 109–10; *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996).

Because the notice of appeal in this case was not timely filed, we lack jurisdiction to entertain the appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *see Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (holding that if appeal is not timely perfected, court of appeals does not obtain jurisdiction to address merits of appeal, and court may take no action other than to dismiss appeal; court may not suspend rules to alter time for perfecting appeal).

PER CURIAM

DO NOT PUBLISH