



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00595-CR

Fidel **CASTILLO**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 186th Judicial District Court, Bexar County, Texas
Trial Court No. 2012CR2204
Honorable Dick Alcala, Judge Presiding

PER CURIAM

Sitting: Marialyn Barnard, Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: October 9, 2013

DISMISSED FOR WANT OF JURISDICTION

The trial court imposed sentence on May 24, 2013, and appellant timely filed a motion for new trial on June 21, 2013. *See* TEX. R. APP. P. 21.4(a). Therefore, the deadline for filing a notice of appeal was August 22, 2013. *See* TEX. R. APP. P. 26.2(a)(2). A notice of appeal was not filed until August 30, 2013, and appellant did not file a motion for extension of time to file the notice of appeal. *See* TEX. R. APP. P. 26.3. According to appellant's appointed counsel, and our review of the clerk's record, there is no envelope containing a postmark with regard to the filing of the notice of appeal.

Because the notice of appeal appeared to be late, we issued an order on September 17, 2013, advising appellant the appeal would be dismissed unless appellant established the notice of appeal was timely filed by mail or otherwise established why the appeal should not be dismissed for want of jurisdiction. Appellant's counsel has filed a response in which he agrees the notice of appeal is untimely and this court lacks jurisdiction.

Because the notice of appeal in this case was not timely filed, we lack jurisdiction to entertain the 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) (explaining that writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure governs out-of-time appeals from felony convictions). Accordingly, we dismiss this appeal for want of jurisdiction.

PER CURIAM

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