



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-14-00023-CR

Jesus **AYALA**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 406th Judicial District Court, Webb County, Texas
Trial Court No. 2003-CRS-000058-D4
Honorable Oscar J. Hale, Jr., Judge Presiding

PER CURIAM

Sitting: Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: April 30, 2014

DISMISSED FOR WANT OF JURISDICTION

The trial court signed the judgment sought to be appealed on November 19, 2003. Because appellant did not file a motion for new trial, the notice of appeal was due to be filed on December 19, 2003. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file the notice of appeal was due on January 5, 2004. TEX. R. APP. P. 26.3. Appellant did not file his notice of appeal until January 9, 2014; appellant did not file a motion for extension of time. This court issued an order on March 31, 2014 directing appellant to show cause why this appeal should not be dismissed for

lack of jurisdiction. Appellant's counsel filed a written response conceding that the notice of appeal was late and this court does not have jurisdiction.

When a notice of appeal and motion for extension of time are not filed within the fifteen-day grace period allowed by Rule 26.3, the appellate court lacks jurisdiction. TEX. R. APP. P. 26.3; *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, 243 (Tex. Crim. App. 1991) (an out-of-time appeal from a 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, the State's motion to dismiss this appeal for lack of jurisdiction is granted, and this appeal is dismissed for want of jurisdiction.

PER CURIAM

DO NOT PUBLISH