



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-15-00426-CR

Roberto **CALDERON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 216th Judicial District Court, Kerr County, Texas
Trial Court No. A05129
Honorable Stephen B. Ables, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice
Karen Angelini, Justice
Jason Pulliam, Justice

Delivered and Filed: August 19, 2015

DISMISSED FOR LACK OF JURISDICTION

From our initial review of the record it appeared appellant has no right of appeal pursuant to Texas Rule of Appellate Procedure 25.2(b). Therefore, on July 22, 2015, this court ordered appellant to show cause in writing why this appeal should not be dismissed. Appellant responded on August 5, 2015.

Review of the record reveals the trial court imposed a two-year sentence in the underlying cause on August 16, 2005. Appellant filed a motion for new trial and application for writ of habeas corpus. The Texas Court of Criminal Appeals denied appellant's writ on June 12, 2007. On June

25, 2015, appellant filed a notice of appeal of the trial court's judgment and motion for new trial in the district court and on July 13, 2015, filed a notice of appeal of the trial court's judgment in this court.

A timely notice of appeal is necessary to invoke a court of appeals' jurisdiction. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). A late notice of appeal may be considered timely so as to invoke a court of appeals' jurisdiction if (1) it is filed within fifteen days of the last day allowed for filing, (2) a motion for extension of time is filed in the court of appeals within fifteen days of the last day allowed for filing the notice of appeal, and (3) the court of appeals grants the motion for extension of time. *See id.*

Appellant's notice of appeal was untimely filed with regard to appellant's original appeal from judgment of conviction. Appellant has failed to provide good cause why this appeal should not be dismissed for lack of jurisdiction. In light of the record presented, appellant has no right of appeal and this court must dismiss this appeal. TEX. R. APP. P. 25.2(d).

Accordingly, the appeal is dismissed. All pending motions are denied as moot.

PER CURIAM

DO NOT PUBLISH