



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00289-CR

Michael **TURNER**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 437th Judicial District Court, Bexar County, Texas
Trial Court No. 2015CR3656
Honorable Lori I. Valenzuela, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
Marialyn Barnard, Justice
Rebeca C. Martinez, Justice

Delivered and Filed: June 8, 2016

DISMISSED FOR LACK OF JURISDICTION

Pursuant to a plea-bargain agreement, appellant pled guilty to the offense of sexual performance of a child under fourteen. On November 5, 2015, appellant was sentenced to ten years in prison in accordance with the terms of his plea bargain agreement. On November 20, 2015, appellant filed a timely motion for new trial. Appellant's notice of appeal was therefore due on February 3, 2016. *See* TEX. R. APP. P. 26.2(a)(2) (providing a notice of appeal in a criminal case must be filed within ninety days after sentence is imposed if the defendant timely files a motion for new trial). A motion for extension of time to file a notice of appeal was due on February 18,

2016. *See* TEX. R. APP. P. 26.3 (providing an appellate court may extend the time for filing a notice of appeal if 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). However, appellant did not file his notice of appeal until May 6, 2016, and he never filed a motion for extension of time to file his notice of appeal.

A timely notice of appeal is necessary to invoke this court's jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); *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 our jurisdiction if (1) it is filed in the trial court 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. TEX. R. APP. P. 26.3. Because appellant did not satisfy these requirements, we ordered him to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant filed a response conceding this appeal must be dismissed for lack of jurisdiction.

This appeal is therefore dismissed for lack of jurisdiction.¹

PER CURIAM

DO NOT PUBLISH

¹Additionally, the clerk's record, which contains a trial court certification stating this is a plea-bargain case and the defendant has no right of appeal, shows this is a plea bargain case and appellant has no right to appeal. *See* TEX. R. APP. P. 25.2(a)(2). Thus, even if a timely notice of appeal had been filed, this appeal would be subject to dismissal under Texas Rule of Appellate Procedure 25.2(d). *See* TEX. R. APP. P. 25.2(d).