



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-16-00654-CR

Smelin V. **ROQUE**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 227th Judicial District Court, Bexar County, Texas  
Trial Court No. 2008CR8480  
Honorable Philip A. Kazen Jr., Judge Presiding

PER CURIAM

Sitting: Patricia O. Alvarez, Justice  
Luz Elena D. Chapa, Justice  
Jason Pulliam, Justice

Delivered and Filed: November 16, 2016

DISMISSED FOR WANT OF JURISDICTION

In the matter underlying this appeal, the trial court revoked Appellant's community supervision and imposed sentence on August 25, 2014; Appellant had thirty days to file a motion for new trial. *See* TEX. R. APP. P. 21.4(a); *Rodarte v. State*, 860 S.W.2d 108, 109 (Tex. Crim. App. 1993). Because Appellant did not timely file a motion for new trial, the notice of appeal was due on September 24, 2014. *See* TEX. R. APP. P. 26.2(a)(1). Two years later, on September 28, 2016, Appellant filed a request for a copy of the appellate record and the name of his appellate counsel. We construe his request as a late-filed notice of appeal.

A timely notice of appeal is necessary to invoke a court of appeals' jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Absent a timely motion for new trial, a defendant's notice of appeal is timely filed if it is filed within thirty days after (1) the day sentence is imposed or suspended in open court, or (2) the day the trial court enters an appealable order. *See* TEX. R. APP. P. 26.2; *Olivo*, 918 S.W.2d at 522. In this case, the appellate record does not show that Appellant's notice of appeal was timely filed.

On October 12, 2016, we ordered Appellant to show cause in writing by November 1, 2016, why this appeal should not be dismissed for want of jurisdiction. *See Olivo*, 918 S.W.2d at 522; *Ater*, 802 S.W.2d at 243. To date, Appellant has not filed any response.

We conclude Appellant's September 28, 2016 notice of appeal was not timely filed and did not invoke this court's appellate jurisdiction. We dismiss this appeal for want of jurisdiction.

PER CURIAM

DO NOT PUBLISH