



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

**MEMORANDUM OPINION**

No. 04-17-00237-CV

**IN THE INTEREST OF G.S., a Child**

From the 407th Judicial District Court, Bexar County, Texas  
Trial Court No. 2016-PA-00112  
Honorable Barbara Hanson Nellermoe, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice  
Karen Angelini, Justice  
Irene Rios, Justice

Delivered and Filed: June 7, 2017

DISMISSED FOR WANT OF JURISDICTION

Appellant attempts to appeal from a final order terminating her parental rights. An appeal from such an order is accelerated. *See* TEX. FAM. CODE ANN. §§ 109.002, 263.405(a) (West 2014). In an accelerated appeal, absent a timely motion to extend time under Rule of Appellate Procedure 26.3, “the deadline for filing a notice of appeal is strictly set at twenty days after the judgment is signed, with no exceptions....” *In re K.A.F.*, 160 S.W.3d 923, 927 (Tex. 2005); *see* TEX. R. APP. P. 26.1(b). The filing of a motion for new trial will not extend the time to perfect an accelerated appeal. TEX. R. APP. P. 28.1(b); *In re K.A.F.*, 160 S.W.3d at 927. A motion for extension of time to file the notice of appeal, if any, must be filed within fifteen days after the twenty-day deadline for filing a notice of appeal. *See* TEX. R. APP. P. 26.3; *In re K.A.F.*, 160 S.W.3d at 927. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice

of appeal beyond the time allowed by rule 26.1, but within the 15-day extension period provided by Rule 26.3. *See* TEX. R. APP. P. 26.1, 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (Tex. 1997) (construing the predecessor to Rule 26). However, once the period for granting a motion for extension of time under Rule 26.3 passes, a party can no longer invoke the appellate court's jurisdiction. *Verburgt*, 959 S.W.2d at 617-18.

Because this is an accelerated appeal, and the trial court signed the order of termination on February 28, 2017, the notice of appeal was due on March 20, 2017. *See* TEX. R. APP. P. 26.1(b); *In re K.A.F.*, 160 S.W.3d at 928. Although appellant filed a timely motion for new trial, this motion did not extend the appellate deadline. *In re K.A.F.*, 160 S.W.3d at 928. Appellant filed the notice of appeal on April 13, 2017, forty-four days after the order of termination was signed. Hence, appellant's notice of appeal was not timely filed. *See* TEX. R. APP. P. 26.1(b); *In re K.A.F.*, 160 S.W.3d at 927-28. Further, appellant did not file a motion to extend time to file her notice of appeal and did not file her notice of appeal within the fifteen-day *Verburgt* period, or before April 4, 2017. *See* TEX. R. APP. P. 26.3; *Verburgt*, 959 S.W.2d at 617-18.

On May 6, 2017, this Court notified appellant that her appeal was subject to dismissal for want of jurisdiction unless she filed a response showing grounds for continuing the appeal. *See* TEX. R. APP. P. 42.3(a). Appellant, through her appointed counsel, filed a response stating that her appellate attorney was not appointed until April 27, 2017, and for this reason, requested that this Court retain jurisdiction.

In the absence of a timely notice of appeal, this Court lacks jurisdiction over the appeal, and therefore, can take no action other than to dismiss the appeal. *See* TEX. R. APP. P. 25.1; *In re K.A.F.*, 160 S.W.3d at 927-28; *Verburgt*, 959 S.W.2d at 617-18.

It is therefore ORDERED that this appeal is dismissed for lack of jurisdiction. *See* TEX. R. APP. P. 42.3(a), 43.2(f).

PER CURIAM