



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00125-CR

Charles Todd **DAY**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 175th Judicial District Court, Bexar County, Texas
Trial Court No. 2017CR1203
Honorable Catherine Torres-Stahl, Judge Presiding

PER CURIAM

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

Delivered and Filed: April 25, 2018

DISMISSED FOR LACK OF JURISDICTION

Pursuant to a plea bargain agreement, appellant pleaded guilty to the offense of possession of a controlled substance (methamphetamine, between 4 and 200 grams) and was sentenced to twelve years' imprisonment and assessed a \$1,500.00 fine. The trial court imposed sentence in the underlying cause on April 24, 2017.

Appellant did not file a motion for new trial. Therefore, appellant's notice of appeal was due to be filed May 24, 2017. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file

the notice of appeal was due on June 8, 2017. TEX. R. APP. P. 26.3. Appellant did not file his notice of appeal until February 20, 2018, and appellant did not file a motion for extension of time.

On March 20, 2018, we ordered appellant to show cause in writing why this appeal should not be dismissed for lack of jurisdiction. We additionally noted that the trial court's certification of appellant's right to appeal indicated this is a plea bargain case and appellant does not have the right to appeal. On April 4, 2018, Appellant filed a response acknowledging the notice of appeal was untimely and conceding the record is devoid of any reason not to dismiss this appeal for lack of jurisdiction.

Because the notice of appeal in this case was not timely filed, we lack jurisdiction to entertain the appeal. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (holding that if appeal is not timely perfected, court of appeals does not obtain jurisdiction to address merits of appeal, and court may take no action other than to dismiss appeal; court may not suspend rules to alter time for perfecting appeal); *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 (Tex. Crim. App. 1991) (explaining that writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure governs out-of-time appeals from felony convictions).

Accordingly, we dismiss this appeal for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH