



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00280-CV

IN THE INTEREST OF J.A.O., A CHILD

From the 73rd Judicial District Court, Bexar County, Texas
Trial Court No. 2013EM503255
Honorable Eric Rodriguez, Judge Presiding

PER CURIAM

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

Delivered and Filed: August 8, 2018

DISMISSED FOR LACK OF JURISDICTION

The trial court signed the Order in Suit for Modification of Support Order and to Confirm Support Arrearage on January 22, 2018. Because appellant did not file a motion for new trial, motion to modify the judgment, motion for reinstatement, or request for findings of fact and conclusions of law, the notice of appeal was due to be filed on February 21, 2018. *See* TEX. R. APP. P. 26.1(a). A motion for extension of time to file the notice of appeal was due on March 8, 2018. *See* TEX. R. APP. P. 26.3. Appellant did not file a motion for extension of time, and the notice of appeal was filed on April 26, 2018.

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 fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*,

959 S.W.2d 615, 617 (Tex. 1997) (construing the predecessor to Rule 26). However, “once the period for granting a motion for extension of time under Rule [26.3] has passed, a party can no longer invoke the appellate court’s jurisdiction.” *Id.*

We, therefore, ordered appellant to show cause in writing on or before June 21, 2018 why this appeal should not be dismissed for lack of jurisdiction. Although appellant filed a pro se motion to modify judgment in this court on June 18, 2018, that motion was not responsive to our order. Further, a motion to modify judgment must be filed in the trial court. *See* TEX. R. CIV. P. 329b(a).

Accordingly, we deny appellant’s motion and dismiss this appeal for lack of jurisdiction.

PER CURIAM