



Fourth Court of Appeals San Antonio, Texas

MEMORANDUM OPINION

No. 04-19-00028-CV

Kent LINDUFF,
Appellant

v.

Lisa Ann ROBERTS a/k/a Lisa Ann Bays,
Appellee

From the 216th Judicial District Court, Kendall County, Texas
Trial Court No. 13-310
Honorable Bill R. Palmer, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: May 8, 2019

DISMISSED FOR LACK OF JURISDICTION

The trial court signed a final judgment in the underlying cause on December 14, 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 January 13, 2019. TEX. R. APP. P. 26.1(a). A motion for extension of time to file the notice of appeal was due on January 28, 2019. TEX. R. APP. P. 26.3. Although appellant filed a notice of appeal on January 16, 2019, within the fifteen-day grace period allowed by Rule 26.3, he did not file a motion for extension of time.

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, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. *See id.*; TEX. R. APP. P. 26.3, 10.5(b)(1)(C). This court ordered appellant to show cause in writing by April 24, 2019 why this appeal should not be dismissed for lack of jurisdiction. We advised appellant that failure to respond timely would result in dismissal of this appeal. *See* TEX. R. APP. P. 42.3. Appellant did not file a response.

Accordingly, because appellant did not provide a reasonable explanation for failure to file a timely notice of appeal, this appeal is dismissed for lack of jurisdiction. *See* TEX. R. APP. P. 26.3, 10.5(b)(1)(C), 42.3(b), (c); *Verburgt*, 959 S.W.2d at 615.

PER CURIAM