



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-20-00407-CV

Marian **HADDAD**,
Appellant

v.

TRI-COUNTY A/C & HEATING, LLC,
Appellee

From the 25th Judicial District Court, Guadalupe County, Texas
Trial Court No. 16-0908-CV
Honorable Gary L. Steel, Judge Presiding

PER CURIAM

Sitting: Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice
Irene Rios, Justice

Delivered and Filed: September 30, 2020

DISMISSED FOR WANT OF JURISDICTION

In the underlying case, the trial court signed a final judgment on April 17, 2020. Appellant Marian Haddad timely filed a motion for new trial, and her notice of appeal was due on July 16, 2020. *See* TEX. R. APP. P. 26.1(a). A motion for extension of time to file a notice of appeal was due on July 31, 2020. *See* TEX. R. APP. P. 26.3.

On August 28, 2020, we advised Appellant that her August 12, 2020 notice of appeal was filed well after the last day to timely file a notice of appeal with an extension, and we ordered Appellant to show cause in writing why this appeal should not be dismissed for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a); *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

Appellant timely filed a response to our show cause order. She explained her notice of appeal was late because she miscalculated the deadline, in part because of the work-at-home effects of the COVID-19 pandemic, and her “inadvertent mistake constitutes a ‘reasonable explanation’ [for her] failure to file within the deadline.”

However, Appellant misunderstands the applicable law.¹ See TEX. R. APP. P. 26.3. The reasonable explanation analysis applies only when the notice of appeal is filed “within 15 days after the deadline for filing the notice of appeal.” See *id.* (fifteen-day window); cf. *Hone v. Hanafin*, 104 S.W.3d 884, 885 n.1 (Tex. 2003) (citing compliance with Rule 26.3 as a prerequisite for invoking the reasonable explanation analysis); *Dimotsis v. Lloyds*, 966 S.W.2d 657 (Tex. App.—San Antonio 1998, no pet.) (citing *Verburgt*, 959 S.W.2d at 617–18) (“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” (emphasis added)).

“[O]nce 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.” *Verburgt*, 959 S.W.2d at 617. We may not, even for good cause, “alter the time for perfecting an appeal in a civil case.” TEX. R. APP. P. 2; *Cammack v. Hierholzer*, No. 04-17-00271-CV, 2017 WL 2124476, at *1 (Tex. App.—San Antonio May 17, 2017, no pet.) (mem. op.).

Necessarily, we dismiss this appeal for want of jurisdiction.

PER CURIAM

¹ In response to the COVID-19 pandemic, the Supreme Court of Texas extended some deadlines in civil cases, but it expressly excluded “deadlines for perfecting appeal” from the automatic extension. Twenty-First Emergency Order Regarding the COVID-19 State of Disaster, Misc. Docket No. 20-9091 (Tex. July 31, 2020); see *Satterthwaite v. First Bank*, No. 02-20-00182-CV, 2020 WL 4359400, at *1 (Tex. App.—Fort Worth July 30, 2020, no pet. h.) (mem. op.).