

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

---

**NO. 09-16-00358-CV**

---

**ANTHONY RAY BANKS, Appellant**

**V.**

**BEAUMONT POLICE DEPARTMENT, ET AL, Appellees**

---

---

**On Appeal from the 172nd District Court**  
**Jefferson County, Texas**  
**Trial Cause No. E-198,296**

---

---

**MEMORANDUM OPINION**

The appellees, Beaumont Police Department, James Singletary, and Shirley Spitzer, filed a motion to dismiss the appeal of Anthony Ray Banks for lack of jurisdiction. The final judgment was signed on August 10, 2016. Notice of appeal was due September 9, 2016. *See generally* Tex. R. App. P. 26.1. A notice of appeal dated September 22, 2016, arrived in an envelope postmarked September 30, 2016. On September 30, 2016, Banks requested a finding of fact from the trial court that Banks received the trial court's order on September 16, 2016.

We abated the appeal and remanded the case to the trial court for a determination of the date that Banks received notice that the judgment had been signed. *See generally* Tex. R. Civ. P. 306a. The trial court found that Banks failed to provide, on sworn motion, proof of the date that he received notice or acquired knowledge that the trial court had signed an order granting the pleas to the jurisdiction. Therefore, the time to perfect appeal runs from the date the trial court signed the judgment. *See Nedd-Johnson v. Wells Fargo Bank, N.A.*, 338 S.W.3d 612, 612-13 (Tex. App—Dallas 2010, no pet.).

Upon receiving the supplemental record, we requested proof of the date on which the notice of appeal was delivered to prison authorities for mailing. A notice of appeal filed by a *pro se* inmate is deemed filed when the inmate handed it over to the prison authorities for mailing. *See Warner v. Glass*, 135 S.W.3d 681, 682 (Tex. 2004). A written response to an I-60 request for information supplied by Banks states, “There was nothing mailed on Sept. 22, 2016 thru the mail room or the [l]aw [l]ibrary. [T]he only one for this address went thru the mail room on Sept[.] 30, 2016.” The information provided by Banks does not support his claim that he handed over the notice of appeal for mailing on September 22, 2016.

We grant the appellees’ motion to dismiss and we dismiss the appeal for lack of jurisdiction.

APPEAL DISMISSED.

---

STEVE McKEITHEN  
Chief Justice

Submitted on April 5, 2017  
Opinion Delivered April 6, 2017

Before McKeithen, C.J., Horton and Johnson, JJ.