

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-18-00191-CR

JAMES DOUGLAS DUKE, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 163rd District Court
Orange County, Texas
Trial Cause No. B140362-R

MEMORANDUM OPINION

The trial court sentenced James Douglas Duke on March 27, 2018. In a criminal case, the appeal must be filed within thirty days of the date the sentence is imposed, or within ninety days if the defendant timely files a motion for new trial. Tex. R. App. P. 26.2(a). Duke did not file a motion for new trial within thirty days of sentencing. Therefore, his notice of appeal was due to be filed on April 26, 2018. Duke's notice of appeal was postmarked on May 11, 2018, and filed on May 14, 2018. Duke did not file a motion for extension of time to file his notice of appeal.

We notified the parties that Duke filed his notice of appeal too late to perfect an appeal. *See* Tex. R. App. P. 25.2(b) (“In a criminal case, appeal is perfected by timely filing a sufficient notice of appeal.”). Duke filed a response but failed to establish timely perfection of his appeal.

The Court finds that the notice of appeal was not timely filed. *See* Tex. R. App. P. 26.2(a)(1). Duke also did not file a motion for extension of time to file his appeal. *See* Tex. R. App. P. 26.3. “If a notice of appeal is not timely filed, the court of appeals has no option but to dismiss the appeal for lack of jurisdiction.” *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012). Accordingly, we dismiss the appeal for lack of jurisdiction.

APPEAL DISMISSED.

LEANNE JOHNSON
Justice

Submitted on June 12, 2018
Opinion Delivered June 13, 2018
Do Not Publish

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