

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-23-00093-CR

FERNANDO CHAVARRIA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. F18-30866**

MEMORANDUM OPINION

The trial court sentenced Fernando Chavarria on September 19, 2022. Chavarria did not file a motion for new trial. Notice of appeal was due to be filed on or before October 19, 2022. *See* Tex. R. App. P. 26.2(a)(1). His time for filing a motion for extension of time to perfect his appeal expired on November 3, 2022. *See* Tex. R. App. P. 26.3. Chavarria filed a notice of appeal on March 24, 2023, more than 30 days after the date the trial court imposed the sentence. On that same date Chavarria filed a motion for leave to file notice of appeal. On March 30, 2023, the

Clerk of the Court notified the parties that the notice of appeal had been filed outside the time for which an extension of time may be granted for filing a notice of appeal, and warned the parties that the appeal would be dismissed unless grounds were shown for continuing the appeal by April 14, 2023. Neither party responded.

When a defendant appeals from a conviction in a criminal case, the time to file a notice of appeal runs from the date sentence is imposed or suspended in open court. *See* Tex. R. App. P. 26.2(a). An appellate court may extend the time to file the notice of appeal if, within 15 days after the deadline for filing the notice of appeal, the defendant files a notice of appeal in the trial court and files a motion for extension of time in the appellate court. *See* Tex. R. App. P. 26.3. Chavarria failed to file a notice of appeal and a motion for an extension of time within the time permitted by the rule. *See id.*

“Timely filing of a written notice of appeal is a jurisdictional prerequisite to hearing an appeal.” *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012). “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.” *Id.* We deny the motion for leave to file notice of appeal as untimely filed and we dismiss the appeal for lack of jurisdiction. *See* Tex. R. App. P. 43.2(f).

APPEAL DISMISSED.

PER CURIAM

Submitted on April 25, 2023
Opinion Delivered April 26, 2023
Do Not Publish

Before Horton, Johnson and Wright, JJ.