



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 2-09-051-CR

ZACHARIAH ELIAS VANDERBURG

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 355TH DISTRICT COURT OF HOOD COUNTY

MEMORANDUM OPINION¹

Appellant Zachariah Elias Vanderburg attempts to appeal from the trial court's judgments sentencing him to two years' imprisonment for one count of sexual assault and six years' community supervision for a second count of sexual assault. We dismiss the appeal for lack of jurisdiction.

Vanderburg's sentence was imposed on November 21, 2008. Vanderburg filed a motion for new trial, so his notice of appeal was due within

¹ [See](#) Tex. R. App. P. 47.4.

ninety days—that is, on or before February 19, 2009. See Tex. R. App. P. 26.2(a)(2). Vanderburg did not file his notice of appeal until February 24, 2009.

We sent notice to Vanderburg on March 26, 2009, stating that because of the apparent untimeliness of his notice of appeal, we would dismiss the appeal unless he or any party desiring to continue the appeal responded by April 6, 2009, and showed grounds for continuing the appeal. See Tex. R. App. P. 9.2(b)(1)–(2). We received no response.

The lack of a timely notice of appeal deprives this court of jurisdiction. See *State v. Riewe*, 13 S.W.3d 408, 410 (Tex. Crim. App. 2000); *Olivo v. State*, 918 S.W.2d 519, 522–23 (Tex. Crim. App. 1996); *Williams v. State*, 76 S.W.3d 207, 209 (Tex. App.—Fort Worth 2002, no pet.). Therefore, because Vanderburg failed to timely file his notice of appeal and failed to provide us with grounds for continuing his appeal, we must dismiss the appeal for want of jurisdiction.² See Tex. R. App. P. 43.2(f).

PER CURIAM

PANEL: WALKER, MCCOY, and MEIER, JJ.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: April 30, 2009

² [▲](#) Because we lack jurisdiction over the appeal, we take no action on Vanderburg’s counsel’s motion to withdraw that was filed on March 16, 2009.