



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

NO. 02-16-00328-CV

VENCENT W. SCALES

APPELLANT

V.

CHARLES R. HORSLEY, ROBERT
J. KLUSMEYER, TAMMY A.
MESSIMER, SHERILYN D. TRENT,
AND DANNY VILLEREAL

APPELLEES

FROM THE 30TH DISTRICT COURT OF WICHITA COUNTY
TRIAL COURT NO. 184,503-A

MEMORANDUM OPINION¹

Appellant Vencent W. Scales, an inmate in a Texas Department of Criminal Justice (TDCJ) facility, proceeding pro se, filed an *in forma pauperis* suit naming as defendants a fellow inmate, Appellee Danny Villereal, as well as Appellees Charles R. Horsley, Robert J. Klusmeyer, Tammy A. Messimer, and

¹See Tex. R. App. P. 47.4.

Sherilyn D. Trent, all of whom are TDCJ employees. On July 7, 2016, the trial court entered an order dismissing Scales's suit pursuant to Chapter 14 of the Texas Civil Practices and Remedies Code. Scales attempts to appeal from that order.

Scales filed his notice of appeal on September 1, 2016. On September 13, 2016, we notified Scales that it appeared we lacked jurisdiction over this appeal because his notice of appeal was not timely filed. See Tex. R. App. 26.1. We advised him that this appeal could be dismissed unless he, or any party desiring to continue the appeal, filed a response showing grounds for continuing the appeal on or before September 23, 2016. See Tex. R. App. P. 42.3(a), 44.3. Scales thereafter filed several documents, none of which demonstrates adequate grounds for continuing his appeal.²

The trial court signed its order dismissing Scales's suit on July 7, 2016, and Scales did not file a motion for new trial. Therefore, Scales's deadline to file his notice of appeal was August 8, 2016. See Tex. R. App. P. 4.1(a), 26.1(a). Scales did not file his notice of appeal until September 1, 2016. We do not have jurisdiction over an appeal absent a timely filed notice of appeal. *Howlett v. Tarrant Cty.*, 301 S.W.3d 840, 843 (Tex. App.—Fort Worth 2009, pet. denied)

²One of the documents Scales filed was a motion for "Extension of Time and Request for Assistance," wherein he requested an extension of time to file his brief on the ground that he was "experiencing difficulties" obtaining paper, pens, envelopes, and carbon paper to write a brief that he estimated would require between 100 and 450 pages. We note that we have not set any briefing deadlines in this appeal.

(op. on reh'g) (citing *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)). Accordingly, because Scales's notice of appeal was untimely filed, we dismiss this appeal for want of jurisdiction.³

PER CURIAM

PANEL: GABRIEL, J.; LIVINGSTON, C.J.; and SUDDERTH, J.

DELIVERED: October 27, 2016

³Because we lack jurisdiction over this appeal, we take no action on Scales's motion for "Extension of Time and Request for Assistance." See *Stephens v. Stephens*, No. 2-10-197-CV, 2010 WL 3433108, at *1 & n.3 (Tex. App.—Fort Worth Aug. 31, 2010, no pet.) (mem. op.) (citing *In re A.L.B.*, 56 S.W.3d 651, 652 (Tex. App.—Waco 2001, no pet.)).