



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

**NO. 02-16-00482-CV**

DOUGLAS CARL MARQUARDT

APPELLANT

V.

LACEY RAY MARQUARDT

APPELLEE

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FROM COUNTY COURT AT LAW NO. 2 OF WICHITA COUNTY  
TRIAL COURT NO. CCL-480-13-F

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**MEMORANDUM OPINION<sup>1</sup>**  
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Douglas Carl Marquardt attempts to appeal from the trial court's order denying his motion for new trial.

On July 11, 2016, the trial court signed a final divorce decree. Douglas timely moved for new trial on July 27, 2016, and the trial court denied the motion on September 22, 2016. See Tex. R. Civ. P. 329b(a), (c). Douglas's notice of

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<sup>1</sup>See Tex. R. App. P. 47.4.

appeal was due October 10, 2016. See Tex. R. App. P. 4.1(a), 26.1(a)(1). He did not file his notice of appeal until December 22, 2016.

On January 6, 2017, we notified the parties of our concern that we lack jurisdiction over this appeal because the notice of appeal was untimely. We informed them that this appeal may be dismissed for want of jurisdiction unless Douglas or any party desiring to continue the appeal filed with the court, on or before January 17, 2017, a response showing grounds for continuing the appeal. See Tex. R. App. P. 42.3(a), 44.3. Neither party has responded.

The time for filing a notice of appeal is jurisdictional in this court, and absent a timely-filed notice of appeal or extension request, we must dismiss the appeal. See Tex. R. App. P. 2, 25.1(b), 26.3; *Jones v. City of Houston*, 976 S.W.2d 676, 677 (Tex. 1998); *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Douglas's notice of appeal states that he is appealing from the September 22, 2016 order denying his motion for new trial. But the deadline for filing a notice of appeal is based on the date the judgment is signed, not the date an order denying a motion for new trial is signed. See Tex. R. App. P. 26.1(a). Because Douglas's notice of appeal was untimely, we dismiss the appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f); *Jones*, 976 S.W.2d at 677; *Verburgt*, 959 S.W.2d at 617.

PER CURIAM

PANEL: KERR, J.; LIVINGSTON, C.J.; and PITTMAN, J.

DELIVERED: February 23, 2017