



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

**NO. 02-18-00028-CR
NO. 02-18-00029-CR**

JESSE PAUL BOWEN

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE COUNTY COURT AT LAW OF HOOD COUNTY
TRIAL COURT NOS. 50402, 50404

MEMORANDUM OPINION¹

Appellant Jesse Paul Bowen attempts to appeal from his convictions for resisting arrest (case number 50402) and evading arrest (case number 50404). See Tex. Penal Code Ann. §§ 38.03, 38.04 (West 2016).

The trial court sentenced Appellant in both cases on November 14, 2017, making any notices of appeal due December 14, 2017. Tex. R. App. P. 26.2.

¹See Tex. R. App. P. 47.4.

Appellant filed his notice of appeal in case number 50404 on December 28, 2017, and his notice of appeal in case number 50402 on January 24, 2018. Any motion to extend the time to file the notices of appeal was due December 29, 2017—15 days after the deadline to file the notices of appeal. Tex. R. App. P. 26.3; *see also Kessinger v. State*, 26 S.W.3d 725, 726 (Tex. App.—Fort Worth 2000, pet. ref'd) (op. on reh'g) (noting the strict application of rule 26 to criminal proceedings).

Appellant's counsel filed a motion to extend the time to file the notices of appeal on January 24, 2018. By letter dated February 2, 2018, we notified Appellant and his counsel that we were concerned that we may not have jurisdiction over these appeals due to the untimeliness of the motion to extend the time to file the notices of appeal. We requested a response showing grounds for continuing the appeals and cautioned that the appeals may be dismissed for want of jurisdiction. *See* Tex. R. App. P. 43.2(f), 44.3.

Additionally, we directed Appellant's attention to articles 11.05 and 11.09 of the Texas Code of Criminal Procedure addressing the availability of habeas corpus relief for out-of-time appeals in misdemeanor proceedings. Tex. Code Crim. Proc. Ann. arts. 11.05, 11.09 (West 2015); *see also Rodriguez v. Ct. App., Eighth Sup. Jud. Dist.*, 769 S.W.2d 554, 557–59 (Tex. Crim. App. 1989); *In re Rios*, No. 13-17-00511-CR, 2017 WL 4173392, at *2 (Tex. App.—Corpus Christi Sept. 20, 2017, orig. proceeding) (mem. op., not designated for publication).

Appellant’s counsel filed a response but it did not provide grounds supporting our jurisdiction to continue the appeals. We therefore dismiss the appeals for want of jurisdiction. See Tex. R. App. P. 43.2(f), 44.3. *But see Ex parte Aranda*, Nos. AP-75,860, AP-75,861, 2008 WL 644058, at *1 (Tex. Crim. App. Mar. 5, 2008) (not designated for publication) (holding habeas applicant was entitled to opportunity to file out-of-time appeals where trial counsel failed to timely file notices of appeal); *Rodriguez*, 769 S.W.2d at 555–59 (holding that district court had habeas corpus jurisdiction and authority to grant an out-of-time appeal where appellant’s direct appeal had been dismissed for his failure to file a record); *Rios*, 2017 WL 4173392, at *2 (“The district court has original jurisdiction to grant post-conviction habeas relief in misdemeanor cases, including the power to grant an out-of-time appeal.”).

PER CURIAM

PANEL: SUDDERTH, C.J.; WALKER and MEIER, JJ.

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

DELIVERED: March 22, 2018