



**In the  
Court of Appeals  
Second Appellate District of Texas  
at Fort Worth**

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No. 02-21-00273-CV

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IN THE INTEREST OF S.B., A CHILD

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On Appeal from the 393rd District Court  
Denton County, Texas  
Trial Court No. 21-0938-393

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Before Sudderth, C.J.; Kerr and Walker, JJ.  
Memorandum Opinion by Justice Walker

## MEMORANDUM OPINION

Appellant C.M. (Mother) attempts to appeal from the trial court's May 21, 2021 order adjudicating appellee M.B. (Father) to be the biological father of S.B. (Sam), appointing Father as Sam's sole managing conservator, appointing Mother as Sam's possessory conservator, and requiring Mother to pay Father monthly child support. Because Mother filed a request to set aside this order on June 2, 2021, her notice of appeal was due no later than August 19, 2021. *See* Tex. R. App. P. 26.1(a). Mother filed her notice of appeal on September 2, 2021—fourteen days after the appellate deadline.

We notified the parties of our concern that we lack jurisdiction over Mother's appeal because the notice of appeal appeared untimely. And we gave Mother the opportunity to respond and provide a reasonable explanation. *See* Tex. R. App. P. 10.5(b), 26.3, 42.3(a), 44.3. Mother did not respond.

The deadline for filing a notice of appeal is jurisdictional; without a timely filed notice of appeal or a timely filed extension request, we must dismiss the appeal. *See* Tex. R. App. P. 25.1(b), 26.1, 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). A motion for extension of time is necessarily implied when, as here, an appellant acting in good faith files a notice of appeal beyond the time allowed by Rule 26.1 but within the fifteen-day period in which the appellant would be entitled to move to extend the filing deadline under Rule 26.3. *See Verburgt*, 959 S.W.2d at 617. But even when an extension motion is implied, the appellant still must reasonably

explain the need for an extension. *See Jones v. City of Hous.*, 976 S.W.2d 676, 677 (Tex. 1998). Because Mother did not do so, we dismiss the appeal for want of jurisdiction. *See Tex. R. App. P.* 42.3(a), 43.2(f); *Chilkewitz v. Winter*, 25 S.W.3d 382, 383 (Tex. App.—Fort Worth 2000, no pet.) (per curiam).

/s/ Brian Walker

Brian Walker  
Justice

Delivered: October 21, 2021