



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

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No. 02-22-00093-CR

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PATRICK EVANS, Appellant

v.

THE STATE OF TEXAS

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On Appeal from Criminal District Court No. 2  
Tarrant County, Texas  
Trial Court No. 0989458D

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

## MEMORANDUM OPINION

Appellant Patrick Evans attempts to appeal the trial court's denial of his motion for postconviction forensic DNA testing. *See* Tex. Code Crim. Proc. 64.05. But Evans's notice of appeal was untimely—it was due “within 30 days . . . after the day the trial court enter[ed] [the] appealable order,” Tex. R. App. P. 26.2(a)(1),<sup>1</sup> but it was not filed until the forty-second day after the trial court entered the appealable order.<sup>2</sup>

“Our appellate jurisdiction is triggered through a timely notice of appeal.” *McCain v. State*, No. 02-13-00459-CR, 2013 WL 6157123, at \*1 (Tex. App.—Fort Worth Nov. 21, 2013, no pet.) (per curiam) (not designated for publication) (dismissing for want of jurisdiction where appellant filed untimely appeal from order denying DNA testing); *see Swain v. State*, 319 S.W.3d 878, 880 (Tex. App.—Fort Worth 2010, no pet.) (per curiam) (mem. op.). Because Appellant's notice of appeal is untimely, we lack jurisdiction and “can take no action other than to dismiss the appeal.” *Manns*, 2015 WL 5893122, at \*1 (dismissing for want of jurisdiction where appellant filed untimely appeal from order denying DNA testing).

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<sup>1</sup>Appellant did not file a motion for new trial. *Cf.* Tex. R. App. P. 26.2(a)(2).

<sup>2</sup>When we notified Appellant of our jurisdictional concerns, *see* Tex. R. App. P. 44.3, Appellant explained that he had attempted to file a notice of appeal on an earlier date. But the record contains no evidence of an earlier notice of appeal, and “we cannot suspend the rules of appellate procedure to extend the time for filing a notice of appeal.” *Manns v. State*, No. 02-15-00247-CR, 2015 WL 5893122, at \*1 (Tex. App.—Fort Worth Oct. 8, 2015, no pet.) (mem. op., not designated for publication).

Accordingly, we dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 43.2(f); *Davis v. State*, 502 S.W.3d 803, 803 (Tex. Crim. App. 2016) (order).

/s/ Bonnie Sudderth

Bonnie Sudderth  
Chief Justice

Do Not Publish  
Tex. R. App. P. 47.2(b)

Delivered: June 23, 2022