

NO. 07-02-0262-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL A  
AUGUST 9, 2002

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JOSEPH LEE MAXWELL, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

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FROM THE 31<sup>ST</sup> DISTRICT COURT OF LIPSCOMB COUNTY;  
NO. TRN 004 078 9403; HONORABLE STEVEN R. EMMERT, JUDGE

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Before BOYD, C.J., and REAVIS and JOHNSON, JJ.

Appellant Joseph Lee Maxwell appeals from his conviction for aggravated robbery. We dismiss for want of jurisdiction.

Appellant was indicted in Lipscomb County for aggravated robbery. On May 6, 2002, he was found guilty by a jury. The jury assessed punishment at confinement for five years and a fine of \$5000. Punishment was imposed on May 6, 2002.

On June 12, 2002, appellant filed a notice of appeal. He did not file a motion for new trial.

On July 22, 2002, appellant filed a Motion to Suspend Operation of TEX. R. APP. P. 26.2(a)(1),<sup>1</sup> or alternatively to Extend Time to File Notice of Appeal.

In a criminal case, appeal is perfected by timely filing a notice of appeal. See TRAP 25.2(a). The notice of appeal must be filed within 30 days after the day sentence is imposed or after the day the trial court enters an appealable order, unless a timely motion for new trial is filed. See TRAP 26.2(a). A motion for new trial may be filed by a criminal defendant no later than 30 days after the date sentence is imposed in open court. See TRAP 21.4(a). The time for filing a notice of appeal may be extended for 15 days under certain circumstances. See TRAP 26.3. If the time for filing a notice of appeal is to be extended, both a notice of appeal and a motion for extension of time which complies with TRAP 10.5(b) must be filed within the 15 day period. See TRAP 26.3; Olivo v. State, 918 S.W.2d 519, 523-25 (Tex.Crim.App. 1996). If either the notice of appeal or the motion for extension of time is not filed within the 15 day period prescribed by TRAP 26.3, the appellate court is without jurisdiction and can take no action other than to dismiss the appeal for want of jurisdiction. See id. at 523.

Appellant's notice of appeal was filed later than 30 days after sentence was imposed, but within the 15 day period provided by TRAP 26.3. However, appellant's

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<sup>1</sup>Further reference to a rule of appellate procedure will be by reference to "TRAP \_\_\_\_\_."

motion to extend time to file the notice of appeal was not filed within the 15 day period. Accordingly, this court does not have jurisdiction over the appeal, does not have jurisdiction to rule on appellant's motion, and can take no action other than to dismiss the appeal. See Slaton, 981 S.W.2d at 210; Olivo, 918 S.W.2d at 523.

The appeal is dismissed for want of jurisdiction. See TRAP 39.8, 40.2, 43.2.

Phil Johnson  
Justice

Do not publish.