

NO. 07-02-0272-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL E
SEPTEMBER 26, 2002

BOBBY J. CATE,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 364TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2001-436,240; HON. BRADLEY UNDERWOOD, PRESIDING

Before QUINN and REAVIS, JJ. and BOYD, SJ.*

Appellant, Bobby J. Cate, appealed from his conviction for aggravated sexual assault. We dismiss the proceeding for lack of jurisdiction.

Sentence was imposed on March 21, 2002. Appellant then filed a motion for new trial on April 19, 2002. To be timely, a notice of appeal must be filed within 30 days after the sentence is imposed or suspended in open court or within 90 days after the sentence is so imposed if a motion for new trial is filed. TEX. R. APP. P. 26.2(a). Thus, appellant's

* John T. Boyd, Chief Justice (Ret.), Seventh Court of Appeals, sitting by assignment. Tex. Gov't Code Ann. §75.002(a)(1) (Vernon Supp. 2002).

notice of appeal was due to be filed here on June 19, 2002, but was not filed until July 19, 2002. Furthermore, a timely motion to extend the June 19th deadline did not accompany or precede the notice.

Since a timely filed notice of appeal is essential to invoke our appellate jurisdiction, *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996), and there was none here, we can take no action other than to dismiss the proceeding. *Id.* at 523. Accordingly, the appeal is dismissed for want of jurisdiction.

Per Curiam

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