

NO. 07-05-0073-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
AUGUST 10, 2005

MARCOS TREVOR VASQUEZ, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE COUNTY COURT OF DEAF SMITH COUNTY;

NO. 04-0483; HONORABLE TOM SIMONS, JUDGE

Before REAVIS and CAMPBELL and HANCOCK, JJ.

MEMORANDUM OPINION

Appellant, Marcos Trevor Vasquez, attempts to appeal his conviction for the offense of driving while intoxicated. Finding we have no jurisdiction to consider the appeal, we dismiss.

Appellant was found guilty by a jury and sentenced February 8, 2005. He filed his notice of appeal with this court on February 22, 2005; however, the notice of appeal was not filed with the trial court clerk until May 10, 2005. In a criminal case, appeal is perfected

by a timely notice of appeal. TEX. R. APP. P. 25.2(b). A notice of appeal is timely if filed within 30 days of the date sentence is imposed or suspended, unless a motion for new trial is filed within the same period. TEX. R. APP. P. 26.2(a), 21.4(a). Notice of appeal must be given in writing and filed with the trial court clerk. TEX. R. APP. P. 25.2(c)(1). If an appeal is not timely perfected, a court of appeals lacks jurisdiction and can take no action other than to dismiss the appeal. See Olivo v. State, 918 S.W.2d 519, 523 (Tex.Crim.App. 1996); Slaton v. State, 981 S.W.2d 208, 210 (Tex.Crim.App. 1998).

No motion for new trial having been filed, appellant's notice of appeal was due to be filed by March 10, 2005. Because the record discloses that the notice of appeal was received by the clerk on May 10th, without seeking an extension of the deadline, TEX. R. APP. P. 26.3, the notice of appeal was late.

We find the absence of a timely notice of appeal deprives this court of jurisdiction. See Douglas v. State, 987 S.W.2d 605, 606 (Tex.App.–Houston [1st Dist.] 1999, no pet.) Lacking jurisdiction, we therefore dismiss this appeal.

Mackey K. Hancock
Justice

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