

NO. 07-06-0005-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
MARCH 2, 2006

CHARLES ALLEN BEERY, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 320TH DISTRICT COURT OF POTTER COUNTY;

NO. 50,160-D; HONORABLE DON EMERSON, JUDGE

Before QUINN, C.J. and REAVIS and CAMPBELL, JJ.

MEMORANDUM OPINION

Appellant, Charles A. Beery, seeks to appeal his conviction of aggravated sexual assault of a child and accompanying sentence of 99 years confinement in the Texas Department of Criminal Justice Institutional Division. We dismiss the appeal for want of jurisdiction.

In a criminal case, appeal is perfected by timely filing a sufficient notice of appeal. TEX. R. APP. P. 25.2(b); 26.2. A timely filed notice of appeal is essential to invoke our

appellate jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex.Crim.App. 1998); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex.Crim.App. 1996).

The record before us reflects appellant was sentenced on September 7, 2005. The notice of appeal was due on or before October 7, 2005. TEX. R. APP. P. 26.2(a). Appellant did not file his notice of appeal until January 19, 2006. Appellant's failure to file a timely notice of appeal prevents this court from having jurisdiction over his appeal. Accordingly, the appeal is dismissed for want of jurisdiction.¹ TEX. R. APP. P. 39.8, 40.2, 43.2(f).

James T. Campbell
Justice

Do not publish.

¹ Appellant may be entitled to an out-of-time appeal by filing a post-conviction writ of habeas corpus returnable to the Texas Court of Criminal Appeals. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (Vernon 2005); see also *Ex parte Garcia*, 988 S.W.2d 240 (Tex.Crim.App. 1999).