

NO. 07-07-0289-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
JULY 25, 2007

JIMMY REAF HOLLEY,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 69TH DISTRICT COURT OF MOORE COUNTY;
NO. 1956; HON. RON ENNS, PRESIDING

Memorandum Opinion

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

Jimmy Reaf Holley (appellant) appeals from the order for withdrawal of funds from his inmate trust account to offset court costs assessed in his prior conviction. We dismiss the appeal for lack of jurisdiction.

The record before us reveals that the "Inmate Trust Account Order" was signed on March 7, 2005. Pursuant to the Texas Rules of Appellate Procedure, appellant was required to file his motion for new trial or notice of appeal with the clerk of the trial court no

later than 30 days after the signing of the order, or by April 6, 2005. The notice of appeal was filed on July 11, 2007. Because the deadline to perfect an appeal was April 6, 2005, the notice appeared untimely. TEX. R. APP. P. 26.2 (stating that one must file a notice of appeal within 30 days of the date the final order is signed, unless that deadline has been extended by motion or rule of procedure). Furthermore, no motion (timely or otherwise) to extend the April 6th deadline was received by this court.

By letter dated July 13, 2007, we directed appellant to explain why the notice of appeal was late or why he believed it to be timely. The explanation was due by July 23, 2007. He was also told that the failure to comply with this directive would result in the Court determining whether it had jurisdiction or not. To date, no response has been received.

A timely notice of appeal is essential to invoke our appellate jurisdiction. *In re A.L.B.*, 56 S.W.3d 651, 652 (Tex. App.–Waco 2003, no pet.). If the notice is untimely, then the court of appeals can take no action other than to dismiss the proceeding. *Id.* The notice at bar being untimely, we dismiss the appeal for want of jurisdiction.

Brian Quinn
Chief Justice

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