

NO. 07-08-0039-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL B

FEBRUARY 11, 2008

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FIVE THOUSAND FOUR HUNDRED FIFTY-NINE DOLLARS (\$5,459.00),

Appellant

V.

THE STATE OF TEXAS,

Appellee

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FROM THE 47<sup>th</sup> DISTRICT COURT OF POTTER COUNTY;

NO. 95,419-A; HON. HAL MINER, PRESIDING

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***MEMORANDUM OPINION***

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

Appellant Jerome Howe filed a notice of appeal on January 14, 2008, from a final summary judgment signed on October 1, 2007. No motion for new trial or like request extending the appellate deadline was filed. Consequently, appellant had until October 31, 2007, to file a notice of appeal. He did not do so. Thereafter, we afforded him opportunity to explain why his notice was untimely and why we had jurisdiction over the appeal. This resulted in his response informing us that the district clerk did not notify him of the

summary judgment until December 6, 2007. Why he did not perfect his appeal within 30 days of December 6<sup>th</sup> went unexplained, however. Moreover, the allegations in his response did not satisfy the requirements of Texas Rule of Civil Procedure 306a(4), which rule permits the belated perfection of an appeal when neither the litigant or his counsel garnered notice or knowledge of the final judgment. See TEX. R. CIV. P. 306a(5) (prescribing the steps that must be satisfied to obtain the benefits of Rule 306a(4)). Given these circumstances, we cannot but conclude that we lack jurisdiction over the appeal. Thus, it is dismissed.

Per Curiam