

NO. 07-09-0218-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
AUGUST 5, 2009

CLARENCE LAMOUNT WESLEY, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 320TH DISTRICT COURT OF POTTER COUNTY;

NO. 59619-D; HONORABLE DON EMERSON, JUDGE

Before CAMPBELL and HANCOCK and PIRTLE, JJ.

MEMORANDUM OPINION

Appellant, Clarence Lamount Wesley, appeals his conviction for the offense of Hindering Apprehension or Prosecution, and sentence of 25 years confinement in the Institutional Division of the Texas Department of Criminal Justice. We will dismiss the appeal for want of jurisdiction.

A timely notice of appeal is necessary to invoke a court of appeal's jurisdiction. Olivo v. State, 918 S.W.2d 519, 522 (Tex.Crim.App. 1996). In the absence of a notice of appeal that was timely filed, in compliance with the requirements of the Texas Rules of

Appellate Procedure, a court of appeals does not obtain jurisdiction to address the merits of the appeal in a criminal case and can take no action other than to dismiss the appeal. Slaton v. State, 981 S.W.2d 208, 210 (Tex.Crim.App. 1998).

From the docketing statement, it would appear sentence was imposed on May 4, 2009. Appellant was required to give notice of appeal within 30 days after the day sentence was imposed or within 90 days after the day sentence was imposed if appellant filed a motion for new trial. TEX. R. APP. P. 26.2(a). There is no indication that appellant filed a motion for new trial, making appellant's notice of appeal due on or before June 3. Appellant filed his notice of appeal on June 30. Appellant's failure to file a timely notice of appeal prevents this court from having jurisdiction over his appeal. Slaton, 981 S.W.2d at 210. Consequently, the appeal is dismissed for want of jurisdiction.¹

Mackey K. Hancock
Justice

Do not publish.

¹Appellant 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, § 3 (Vernon Supp. 2008). See also Mestas v. State, 214 S.W.3d 1, 1 (Tex.Crim.App. 2007); Reyes v. State, 883 S.W.2d 291, 293 n.2 (Tex.App.—El Paso 1994, no pet.).