

NO. 07-11-0224-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
JUNE 17, 2011

EARNEST MANLEY,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 140TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 98-427550; HON. JIM BOB DARNELL, PRESIDING

Order of Dismissal

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

Earnest Manley, appellant, attempts to appeal his conviction for aggravated robbery. The court imposed sentence on November 6, 1998. His notice of appeal was filed on May 6, 2011. We dismiss for want of jurisdiction.

To be timely, a notice of appeal must be filed within thirty days after the sentence is imposed or suspended in open court or within ninety days after that date if a motion for

new trial is filed. TEX. R. APP. P. 26.2(a). Therefore, the notice of appeal was due on December 7, 1998.

A timely filed notice of appeal is essential to invoke our appellate jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). If it is untimely, we can take no action other than to dismiss the proceeding. *Id.* at 523. Appellant's notice being untimely filed, we have no jurisdiction over the matter and dismiss the appeal.

Accordingly, appellant's appeal is dismissed.¹

Brian Quinn
Chief Justice

Do not publish.

¹The appropriate vehicle for seeking an out-of-time appeal from a final felony conviction is by writ of habeas corpus pursuant to Article 11.07 of the Texas Code of Criminal Procedure. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (Vernon 2005).