



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-17-00139-CV

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**KYLE MICHAEL CATANZARO AND JOEL MATTHEW YOUNG, APPELLANTS**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 261st District Court  
Travis County, Texas  
Trial Court No. D-1-GN-16-000199, Honorable Tim Sulak, Presiding

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July 7, 2017

**MEMORANDUM OPINION**

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

Appellants Kyle Michael Catanzaro and Joel Matthew Young, appearing *pro se*, attempt to appeal a *Final Summary Judgment* in favor of appellee the State of Texas.<sup>1</sup>

We dismiss the appeal for want of jurisdiction.

The trial court signed the summary judgment on February 7, 2017. Because appellants did not file any post-judgment motions that would extend the time to perfect

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<sup>1</sup> The case was transferred from the Third Court of Appeals to our Court, under an order of the Supreme Court of Texas. See TEX. GOV'T CODE ANN. § 73.001 (West 2013); TEX. R. APP. P. 41.3 (precedent of transferor court).

appeal, their notice of appeal was due thirty days later, by March 9, 2017. See TEX. R. APP. P. 26.1(a). This deadline could have been extended to March 24 had appellants filed a notice of appeal and a motion for extension within the fifteen-day extension period. See TEX. R. APP. P. 10.5(b), 26.3; see also *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997) (implying a motion for extension when an appellant tenders a notice of appeal with fifteen days after the notice deadline). Appellants did not file their notice of appeal, however, until March 29.

By letter dated May 8, we notified appellants that their notice of appeal appeared to have been filed untimely and, as a result, this Court would be without jurisdiction to entertain a direct appeal. We also advised appellants that their appeal might meet the requirements to proceed as a restricted appeal,<sup>2</sup> and directed them to show why the Court has jurisdiction over the appeal by May 22. However, appellants did not respond to this Court's inquiry. By letter dated June 5, we again directed them to file a response showing grounds for continuing the appeal by June 16, and advised that failure to comply would lead to dismissal of the appeal for want of jurisdiction. Appellants again failed to respond to the Court's letter.

A timely-filed notice of appeal is required to invoke this Court's appellate jurisdiction. See TEX. R. APP. P. 25.1(b); 26.1, *Verburgt*, 959 S.W.2d at 617. Because

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<sup>2</sup> See TEX. R. APP. P. 25.1(d)(7) (required contents for notice of restricted appeal); 26.1(c) (notice of restricted appeal must be filed within six months after the judgment is signed); 30 (allowing a party to file a restricted appeal if the party did not participate in the hearing resulting in the judgment complained of and did not timely file a post-judgment motion, request for findings of fact and conclusions of law, or a notice of appeal within the time permitted by Rule 26.1(a)).

appellants' notice of appeal was not timely filed and appellants have not demonstrated that their appeal may proceed as a restricted appeal, we must dismiss the appeal.<sup>3</sup>

Accordingly, the appeal is dismissed for want of jurisdiction and appellants' failure to comply with an order of this Court. See TEX. R. APP. P. 42.3(a), (c).

Per Curiam

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<sup>3</sup> We also note that appellants have failed to make payment arrangements for preparation of the clerk's record. The clerk's record was due on April 10, 2017. By letter dated April 11, 2017, the Clerk of the Third Court of Appeals requested that appellants make arrangements to pay for the clerk's record and submit a status report by April 21, or the appeal would be subject to dismissal for want of prosecution. See TEX. R. APP. P. 37.3(b). Appellants never complied with this notice from the Third Court's Clerk.