



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

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No. 07-18-00074-CR

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**PEDRO GARCIA, JR., APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 364th District Court  
Lubbock County, Texas  
Trial Court No. 2016-408,822, Honorable William R. Eichman II, Presiding

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April 17, 2018

**MEMORANDUM OPINION**

Before QUINN, CJ., and CAMPBELL and PIRTLE, JJ.

Appellant, Pedro Garcia, Jr., attempts to appeal his conviction for murder<sup>1</sup> and sentence of thirty-five years imprisonment. We dismiss his attempted appeal for want of jurisdiction.

Appellant was sentenced on December 13, 2017. Because appellant did not file a motion for new trial, his notice of appeal was due within thirty days after sentence was

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<sup>1</sup> TEX. PENAL CODE ANN. § 19.02(b)(1) (West 2011).

imposed, by January 12, 2018. See TEX. R. APP. P. 26.2(a) (a notice of appeal must be filed within thirty days after sentence is imposed or within ninety days after that date if a motion for new trial is timely filed). Appellant filed a notice of appeal, *pro se*, on March 9.

In response to our inquiry regarding the apparently late notice of appeal, appellant's trial counsel has advised the Court a writ of habeas corpus allowing appellant an out-of-time appeal will be filed. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015). Counsel acknowledges the notice of appeal was untimely.

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

Accordingly, we dismiss the appeal for want of jurisdiction.

Per Curiam

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