



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

No. 07-21-00132-CR

DUSTIN MERLE WHALEY, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 47th District Court
Potter County, Texas
Trial Court No. 70,323-A; Honorable Dan L. Schaap, Presiding

June 16, 2021

MEMORANDUM OPINION

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

Pursuant to an open plea of guilty, Appellant, Dustin Merle Whaley, was convicted of evading arrest with a vehicle¹ and sentenced to six years confinement. We affirmed his conviction in *Whaley v. State*, No. 07-16-00126-CR, 2018 Tex. App. LEXIS 5612, at *7 (Tex. App.—Amarillo July 24, 2018, no pet.) (mem. op., not designated for publication).

¹ See TEX. PENAL CODE ANN. § 38.04(b)(2)(A) (West 2017).

On June 8, 2021, Appellant filed a notice with this court requesting a new appeal and the appointment appellate counsel. We dismiss the purported appeal for want of jurisdiction.

Appellant was sentenced on March 22, 2016. Because Appellant timely filed a motion for new trial, his notice of appeal was due within ninety days after sentence was imposed, i.e., by June 20, 2016. See TEX. R. APP. P. 26.2(a)(2). Appellant filed the instant notice of appeal on June 8, 2021. Because the timely filing of a written notice of appeal is a jurisdictional prerequisite to hearing an appeal, we have no option but to dismiss the untimely appeal for want of jurisdiction. See *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012).

Accordingly, we deny Appellant's request for appointed counsel and dismiss this appeal.²

Per Curiam

Do not publish.

² In his notice of appeal, Appellant states that he previously received ineffective assistance of appellate counsel and, therefore, seeks a new appeal. Although this court has no authority to grant such a request, Appellant may be entitled to relief by filing an application for writ of habeas corpus returnable to the Court of Criminal Appeals. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (West 2015).