



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-08-00104-CR

DONALD GENE FLINT, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 202nd Judicial District Court
Bowie County, Texas
Trial Court No. 06F0023-202

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

Donald Gene Flint appeals from his jury convictions of one count of aggravated sexual assault of a child and three counts of indecency with a child/sexual contact. The sentences were imposed March 6, 2008. Flint filed a motion for new trial April 15, 2008, and his notice of appeal was filed May 29, 2008.

According to Rule 21.4, Flint had thirty days after the day sentence was imposed¹ to file his motion for new trial. *See* TEX. R. APP. P. 21.4. Because the thirtieth day fell on a Saturday, Flint had until the following Monday, April 7, 2007, to file a motion for new trial. *See* TEX. R. APP. P. 4.1. The motion for new trial was filed on April 15.² The motion for new trial was untimely. Flint was thus required to file his notice of appeal within thirty days of the date sentence was imposed. *See* TEX. R. APP. P. 26.2(a)(1). Because the notice of appeal was not filed within thirty days of the date sentence was imposed, this appeal is untimely and we are without jurisdiction to hear this case. *See* TEX. R. APP. P. 21.4, 26.2(a).

¹The timetable for filing a motion for new trial or a notice of appeal begins when sentence is imposed in open court. TEX. R. APP. P. 21.4. Counsel states in the motion for new trial: "The Defendant was sentenced on March 17, 2008. This Motion, filed within the thirty-day timetable, is therefore timely." The judgment was signed March 17; however, sentence was imposed March 6, 2008. Therefore, the motion for new trial was untimely.

²The certificate of service on the motion for new trial is also dated April 15. Therefore, the mailbox rule does not apply. *See* TEX. R. APP. P. 9.2(b).

We dismiss this appeal for want of jurisdiction.

Josh R. Morriss, III
Chief Justice

Date Submitted: July 9, 2008
Date Decided: July 10, 2008

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