



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

No. 06-11-00038-CR

EDWIN JEFFREY HENDRICKS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 354th Judicial District Court
Hunt County, Texas
Trial Court No. 23,799

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

MEMORANDUM OPINION

Edwin Jeffrey Hendricks attempts to appeal his revocation of community supervision. Counsel represents to this Court that Hendricks was sentenced December 27, 2010, that no timely motion for new trial was filed, and that the notice of appeal was mailed to the trial court clerk February 17, 2011.

A late notice of appeal invokes the appellate court's jurisdiction only if (1) it is filed within fifteen days of the last day allowed for filing, (2) a motion for extension of time is filed in the court of appeals within fifteen days of the last day allowed for filing the notice of appeal, and (3) the court of appeals grants the motion for extension of time. *Olivo v. State*, 918 S.W.2d 519 (Tex. Crim. App. 1996). Further, when a notice of appeal is filed within the fifteen-day period but no timely motion for extension of time is filed, the appellate court lacks jurisdiction. *Id.* at 522 (citing *Rodarte v. State*, 860 S.W.2d 108 (Tex. Crim. App. 1993)).

The Texas Court of Criminal Appeals interprets Rule 26.3 of the Texas Rules of Appellate Procedure strictly to require an appellant in a criminal case to file his or her notice of appeal and a motion for extension within the fifteen-day period for filing a late notice of appeal. *Id.* at 522–26; *see* TEX. R. APP. P. 26.3. The Texas Court of Criminal Appeals has expressly held that without a timely-filed notice of appeal or motion for extension of time, we cannot exercise jurisdiction over an appeal. *See Olivo*, 918 S.W.2d at 522; *see also Slaton v. State*, 981 S.W.2d 208, 209 n.3 (Tex. Crim. App. 1998).

Hendricks has now filed a motion to extend time with this Court to file his notice of appeal.. That motion was placed in the mail on February 17, 2011, past the fifteen-day extension window allowed for motions to extend time to file notices of appeal. TEX. R. APP. P. 26.2(1). We overrule the motion as untimely filed.

This appeal is untimely brought, and we are without jurisdiction to hear this case.

We dismiss this appeal for want of jurisdiction.

Jack Carter
Justice

Date Submitted: February 28, 2011
Date Decided: March 1, 2011

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