



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

No. 06-13-00197-CR

MICHAEL SCOTT BAUGHMAN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 5th District Court
Cass County, Texas
Trial Court No. 2013-F-00091

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

MEMORANDUM OPINION

Michael Scott Baughman attempts to appeal from a judgment adjudicating him guilty of retaliation and sentencing him to ten years' confinement. Baughman's sentence was imposed July 3, 2013. His motion for new trial was filed August 5, 2013, and his notice of appeal was filed September 5, 2013. The issue before us is whether Baughman timely filed his notice of appeal. We conclude that he did not and dismiss the appeal for want of jurisdiction.

A timely-filed notice of appeal is necessary to invoke this Court's jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Rule 26.2(a) of the Texas Rules of Appellate Procedure prescribes the time period in which a notice of appeal must be filed to perfect an appeal in a criminal case. *See* TEX. R. APP. P. 26.2(a). A criminal defendant's notice of appeal is timely if filed within thirty days after the date sentence is imposed or suspended or within ninety days after sentencing if the defendant timely files a motion for new trial. *Id.*; *Olivo*, 918 S.W.2d at 522.

In this case, Baughman's motion for new trial was filed thirty-four days after the date sentence was imposed, making it untimely. As a result, Baughman did not trigger the ninety-day filing period that accompanies a timely-filed motion for new trial, and his notice of appeal was due within thirty days of the date sentence was imposed. Since Baughman's notice of appeal was not filed within this thirty-day window, it was untimely, and we are without jurisdiction to consider the appeal.

Accordingly, we dismiss this appeal for want of jurisdiction.

Josh R. Morriss, III
Chief Justice

Date Submitted: November 13, 2013
Date Decided: November 14, 2013

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