



**IN THE  
TENTH COURT OF APPEALS**

**No. 10-10-00102-CR**

**THEODORE PAUL GALLIA, JR.,**

**Appellant**

**v.**

**THE STATE OF TEXAS,**

**Appellee**

**From the 19th District Court  
McLennan County, Texas  
Trial Court No. 2006-1701-C1**

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**MEMORANDUM OPINION**

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Theodore Paul Gallia, Jr., pro se, appeals from his plea-bargained felony conviction.<sup>1</sup> The Clerk warned Gallia that the Court might dismiss his appeal because his notice of appeal was not timely filed unless, within 21 days, a response was filed showing grounds for continuing the appeal. The date sentence was imposed was December 14, 2009. Gallia's notice of appeal was filed on March 15, 2010 and was thus

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<sup>1</sup> The record contains a waiver of appeal, and the certification of defendant's right of appeal states that Gallia's case is a plea-bargain case, that he has no right of appeal, and that he has waived the right of appeal.

untimely. See TEX. R. APP. P. 26.2(a)(1) (providing that notice of appeal must be filed within 30 days after date sentence imposed or 30 days after entry of appealable order).

Gallia's response requests an out-of-time appeal.<sup>2</sup> We lack jurisdiction to grant an out-of-time appeal; that authority belongs exclusively to the Court of Criminal Appeals through a writ of habeas corpus. See *Parr v. State*, 206 S.W.3d 143, 144-45 (Tex. App.—Waco 2006, no pet.). Because Gallia's notice of appeal is untimely, we lack jurisdiction and dismiss his appeal.<sup>3</sup>

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Reyna, and  
Justice Davis  
Appeal dismissed  
Opinion delivered and filed April 21, 2010  
Do not publish  
[CR25]

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<sup>2</sup> Gallia's response asserts that he was not informed of his right to appeal, that a deputy instructed him to sign a waiver without his attorney present, and that his attorney failed to request an appeal. Because we lack jurisdiction, we cannot address these allegations.

<sup>3</sup> Remaining pending are Gallia's two other proceedings: 10-09-00372-CR and 10-09-00373-CR.

