



**IN THE
TENTH COURT OF APPEALS**

**No. 10-10-00195-CV
No. 10-10-00196-CV**

GERARDO BAZALDUA,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 54th District Court
McLennan County, Texas
Trial Court Nos. 1997-662-C2 and 1999-420-C2**

MEMORANDUM OPINION

On January 13, 2010, the trial court signed orders in the underlying criminal cases for the payment of court costs out of Appellant Gerardo Bazaldua's inmate account pursuant to Texas Government Code section 501.014. On April 28, Appellant filed a motion to rescind and dismiss those orders, and the trial court denied the motions on May 7.¹ Appellant filed notices of appeal on May 24.

¹ The motions asserted, among other things, that the costs had already been collected and paid out of Appellant's inmate account.

A trial court retains plenary power to grant a new trial or to vacate, modify, correct, or reform a judgment (or an otherwise appealable final order) within thirty days after the judgment or order is signed. *See* TEX. R. CIV. P. 329b(d). Appellant's April 28 motions were filed after the trial court's plenary power as to the January 13 orders had expired.

The notices of appeal must have been filed within 30 days after the January 13 orders were signed, (*see* TEX. R. APP. P. 26.1(a)), or a motion for extension of time to file notice of appeal must have been filed within 15 days after the deadline for filing the notice of appeal. *See* TEX. R. APP. P. 26.3.

We notified Appellant in a letter dated June 8, 2010 that his appeals might be dismissed for want of jurisdiction unless he filed a response within 21 days showing grounds for continuing the appeals. Appellant has not responded. Nor has he alleged here or in the trial court that he did not receive notice of the January 13 orders. *See* TEX. R. CIV. P. 306a(4). Appellant's notices of appeal were untimely to invoke our jurisdiction in a direct appeal, and these appeals are dismissed for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis
(Chief Justice Gray dissenting)
Dismissed
Opinion delivered and filed September 1, 2010
[CV06]