



**IN THE
TENTH COURT OF APPEALS**

No. 10-10-00390-CR

EX PARTE CINDY ANDERSON KELLY

**From the County Court at Law No. 2
Ellis County, Texas
Trial Court Nos. 09-10,705**

MEMORANDUM OPINION

This is an appeal from the trial court's denial of Appellant's pretrial application for writ of habeas corpus (on double jeopardy grounds). On August 11, 2010, the trial court entered an order denying the application. Appellant's notice of appeal of that order was filed on October 22, 2010.

The State has filed a motion to dismiss for lack of jurisdiction. It argues that Appellant was required to file her notice of appeal within thirty days of August 11. *See Green v. State*, 999 S.W.2d 474, 476 (Tex. App.—Fort Worth 1999, pet. ref'd); *Pena v. State*, 940 S.W.2d 260, 261 (Tex. App.—San Antonio 1997, no pet.). Appellant has not filed a response to the State's motion to dismiss.

Because the notice of appeal is untimely, we grant the motion to dismiss and dismiss this appeal for lack of jurisdiction.

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis

Appeal dismissed

Opinion delivered and filed November 24, 2010

Do not publish

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