



**IN THE
TENTH COURT OF APPEALS**

No. 10-11-00157-CR

BENJAMIN ALAN MORRISON,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 19th District Court
McLennan County, Texas
Trial Court No. 2010-997-C1**

MEMORANDUM OPINION

Benjamin Alan Morrison, pro se, appeals from his plea-bargained felony convictions. The Clerk warned Morrison that the Court would 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 Clerk also warned Morrison that because the trial court noted on the certification of defendant's right of appeal that he had no right of appeal and Morrison had signed a waiver of his right to appeal, the Court would dismiss the appeal unless, within 21 days, we received a certification

stating that Morrison has a right to appeal or a response was filed showing grounds for continuing the appeal. See TEX. R. APP. P. 25.2(d); *Chavez v. State*, 183 S.W.3d 675, 680 (Tex. Crim. App. 2006). Morrison has not responded.

The date sentence was imposed was March 21, 2011. Morrison's notice of appeal was filed on May 4, 2011 and was thus 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). Because Morrison's notice of appeal is untimely, we lack jurisdiction. Furthermore, there is no certification that permits Morrison to appeal, and he waived his right to appeal. See *Chavez*, 183 S.W.3d at 680; *Davis v. State*, 205 S.W.3d 606, 607 (Tex. App.—Waco 2006, no pet.).

We dismiss the appeal. Morrison's motion to "recuse" the District Attorney is dismissed as moot.

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Appeal dismissed; motion dismissed as moot
Opinion delivered and filed June 29, 2011
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