

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-01-00613-CV**

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**Michael Mobley, Appellant**

**v.**

**Alcides B. Cairus and Darla Cairus, Appellees**

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**FROM THE DISTRICT COURT OF HAYS COUNTY, 207TH JUDICIAL DISTRICT  
NO. 2001-0796, HONORABLE CHARLES RAMSAY, JUDGE PRESIDING**

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The judgment in this case was signed July 18, 2001. A timely motion for new trial was filed; the notice of appeal was due October 16, 2001. Tex. R. App. P. 26.1(a)(1). A motion for extension of time to file notice of appeal was due no later than October 31, 2001. *Id.* at 26.3. Appellant filed his notice of appeal and motion for extension of time on November 1, 2001.<sup>1</sup> The Court may not consider a late-filed motion for extension of time. *City of Lancaster v. Texas Natural Res. Conservation Comm'n*, 935 S.W.2d 226, 228 (Tex. App.—Austin 1996, writ denied); *see* Tex. R. App. P. 2 (court may not alter the time for perfecting an appeal in a civil case). Accordingly, we overrule appellant's motion for extension of time to file notice of appeal. Without timely perfection of the appeal, this Court lacks jurisdiction and the appeal must be dismissed. *Davis v. Massey*, 561 S.W.2d 799, 801 (Tex. 1978); *Flores v. Citizens State Bank of Roma*, 954 S.W.2d 78, 79 (Tex.

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<sup>1</sup> The motion for extension of time is dated November 1, 2001 and was hand-delivered to the office of the clerk of this Court. Therefore, the mailbox rule does not apply. *See* Tex. R. App. P. 9.1(b).

App.—Austin 1997, no writ). Appellees have filed a motion to dismiss for want of jurisdiction based on the late filing of the notice of appeal. According, we grant appellees' motion and dismiss this case for want of jurisdiction. Tex. R. App. P. 42.3(a).

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Lee Yeakel, Justice

Before Justices Kidd, Yeakel and Patterson

Dismissed for Want of Jurisdiction

Filed: November 29, 2001

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