

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

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**NO. 03-03-00217-CV**

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**Dan Thomas, Appellant**

**v.**

**Terry Keel, Former Sheriff of Travis County, Appellee**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 126TH JUDICIAL DISTRICT  
NO. 96-10397, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

Because appellant Dan Thomas failed to timely file his notice of appeal and his motion to extend time to file a notice of appeal, we dismiss his appeal for want of jurisdiction on our own motion. *See* Tex. R. App. P. 42.3(a). We also dismiss his motions to extend time to file a notice of appeal and his motion to extend time to file a brief.

According to the clerk's record, the trial court signed an order of dismissal in this cause on June 19, 2002. Thus, a notice of restricted appeal was due to be filed within six months after the order was signed, or on or before December 19, 2002. *See id.* 26.1(c). Any motion for extension of time to file the notice of appeal was due within fifteen days of the due date of the notice of appeal, or January 3, 2003. *See id.* 26.3. Thomas filed his notice of restricted appeal and a motion for extension of time to file his notice of appeal on April 8, 2003.

Because Thomas did not file his notice of appeal until more than six months after the dismissal order was signed, his notice of appeal was untimely, as was his motion for extension of time. The time period for filing a perfecting instrument is jurisdictional. *Velasquez v. Harrison*, 934 S.W.2d 767, 770 (Tex. App.—Houston [1st Dist.] 1996, no writ). When an appellant fails to file timely a perfecting instrument or properly seek an extension of time to file a perfecting instrument, the appellate court must dismiss the cause for lack of jurisdiction. *Id.*

Because appellant's notice of appeal was not timely filed, this Court is without jurisdiction over the appeal. Accordingly, we dismiss this appeal and all related motions for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

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Bea Ann Smith, Justice

Before Chief Justice Law, Justices B. A. Smith and Puryear

Dismissed for Want of Jurisdiction

Filed: June 19, 2003