

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-03-00604-CV

Javier Pena Serrano, Appellant

v.

Katherine Walters, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 201ST JUDICIAL DISTRICT
NO. FM300272, HONORABLE CHARLES F. CAMPBELL, JR., JUDGE PRESIDING**

MEMORANDUM OPINION

Because appellant Javier Pena Serrano failed timely to file his notice of appeal, we will dismiss his appeal for want of jurisdiction on our own motion. *See* Tex. R. App. P. 42.3(a).

According to the clerk's record, the trial court signed a judgment in this cause on July 2, 2003. Because the case involved termination of parental rights, a notice of appeal was due to be filed within twenty days after the judgment was signed, or on or before July 22, 2003. *See* Tex. Fam. Code Ann. § 109.002(a) (West 2002); Tex. R. App. P. 26.1(b). Serrano did not file his notice of appeal until September 29, 2003.

By letter dated October 21, 2003, the Clerk of this Court informed the parties that unless Serrano provided the Court with proof of timely filing of his notice of appeal by October 31, his appeal would be dismissed for want of jurisdiction. Serrano has provided no such proof. Thus, because Serrano did not file his notice of appeal until more than twenty days after the trial court

signed its judgment, his notice of appeal was untimely. 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 Serrano’s notice of appeal was not timely filed, this Court is without jurisdiction over the appeal. Accordingly, we dismiss this appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

Mack Kidd, Justice

Before Chief Justice Law, Justices Kidd and Puryear

Dismissed for Want of Jurisdiction

Filed: November 20, 2003