

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-14-00201-CR

Christopher Sterling Sims, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 426TH JUDICIAL DISTRICT
NO. 66,168, HONORABLE FANCY H. JEZEK, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Christopher Sterling Sims seeks to appeal the trial court's denial of his motion for DNA testing. *See* Tex. Code Crim. Proc. arts. 64.01-05. The trial court signed the order denying Sims's motion on February 19, 2014, and the deadline for Sims to perfect his appeal was March 21, 2014. *See* Tex. R. App. P. 26.2 (a)(1). However, Sims did not file his notice of appeal with the trial court until March 28, 2014. *See* Tex. R. App. P. 25.1 (providing that appeal is perfected when notice is filed with trial court clerk). On the same day, Sims also filed with the trial court a motion for extension of time to perfect appeal.

Pursuant to Rule 26.3 of the Texas Rules of Appellate Procedure, this Court may extend an appellant's deadline to file his notice of appeal if, within 15 days after the deadline, the appellant (1) filed a motion to extend time in this Court, and (2) filed a notice of appeal in the trial court. *See* Tex. R. App. P. 26.3. A motion for extension of time filed in the trial court is not effective to extend the time for filing a notice of appeal and does not operate as a motion for

extension of time under Rule 26.3. *See* Tex. R. App. P. 26.3(b); *Moreno v. State*, 954 S.W.2d 97, 97 (Tex. App.—San Antonio 1997, no pet.); *Jones v. State*, 900 S.W.2d 421, 423 (Tex. App.—Texarkana 1995, no pet.). Sims did not file his motion for extension of time in this Court, and his notice of appeal was not filed on or before March 21, 2014. As a result, this Court is without jurisdiction over his appeal. *See Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012) (“If a notice of appeal is not timely filed, the court of appeals has no option but to dismiss the appeal for lack of jurisdiction.”). Thus, we dismiss this appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

Scott K. Field, Justice

Before Justices Puryear, Goodwin, and Field

Dismissed for Want of Jurisdiction

Filed: June 12, 2014

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