

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00060-CR

David Ponder, Appellant

v.

State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 4 OF TRAVIS COUNTY
NO. C-1-CR-15-100004, HONORABLE MIKE DENTON, JUDGE PRESIDING**

MEMORANDUM OPINION

David Ponder seeks to appeal his December 13, 2016 judgment of conviction from the county court at law.¹ The thirty-day deadline for perfecting the appeal was January 12, 2017. *See* Tex. R. App. P. 26.2(a)(1). However, Ponder did not file his notice of appeal until January 20, 2017,² and he did not seek an extension of time to file his notice of appeal. *See* Tex. R. App. P. 26.3.

Under the circumstances, we lack jurisdiction to dispose of this purported appeal in any manner other than by dismissing it for want of jurisdiction. *See Olivo v. State*, 918 S.W.2d 519, 522-23 (Tex. Crim. App. 1996) (concluding that when belated notice of appeal is filed without

¹ Because Ponder was tried in municipal court, his appeal was initially to the county court at law. *See Hassan v. State*, 369 S.W.3d 872, 874 (Tex. Crim. App. 2012); *see also* Tex. Gov't Code § 30.00027.

² Ponder's certificate of service states that he served the prosecutor's office by hand delivery the same day.

timely motion for extension of time appellate court must dismiss purported appeal for lack of jurisdiction); *see also Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (holding that amendments to rules of appellate procedure did not affect *Olivo*'s rationale requiring timely notice of appeal to vest appellate court with jurisdiction); *Garza v. State*, Nos. 14-06-00595-CR & 14-06-00596-CR, 2006 Tex. App. LEXIS 6581, at *2 (Tex. App.—Houston [14th Dist.] July 27, 2006, no pet.) (mem. op., not designated for publication) (concluding that court of appeals lacked jurisdiction to consider merits of appeals from county court at law for cases that were tried in municipal court because notices of appeal were untimely filed in court of appeals).

The appeal is dismissed for want of jurisdiction.

Jeff Rose, Chief Justice

Before Chief Justice Rose, Justices Pemberton and Goodwin

Dismissed for Want of Jurisdiction

Filed: September 8, 2017

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