

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00364-CV

S. B., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 345TH JUDICIAL DISTRICT
NO. D-1-FM-16-002135, HONORABLE SCOTT H. JENKINS, JUDGE PRESIDING**

MEMORANDUM OPINION

In this accelerated appeal, the trial court signed a final decree terminating S.B.'s parental rights to her child on March 6, 2017. The deadline for filing her notice of appeal then was on or before March 27, 2017. *See* Tex. R. App. P. 26.1(b) (requiring notice of appeal in accelerated appeal to be filed within 20 days after judgment or order signed).

On June 5, 2017, this Court notified appellant that her notice of appeal—that was filed on May 26, 2017—appeared untimely and that the appeal would be dismissed for want of jurisdiction unless she filed a response explaining how this Court has jurisdiction over this appeal. *See* Tex. R. App. P. 42.3(a) (allowing appellate court to dismiss case for want of jurisdiction after giving ten days' notice to parties).

Appellant has filed a response and a motion for the appeal to go forward. She concedes that her notice of appeal was not filed in a timely manner but argues that her trial counsel

provided ineffective assistance of counsel by not timely filing the notice of appeal and that her due process rights will have been violated if her appeal is not allowed to go forward. She seeks an extension of ninety days beyond the usual time for filing an appeal.

In an accelerated appeal, absent a motion to extend time under Texas Rule of Appellate Procedure 26.3, “the deadline for filing a notice of appeal is strictly set at twenty days after the judgment is signed, with no exceptions.” *In re K.A.F.*, 160 S.W.3d 923, 927 (Tex. 2005). The deadline for filing a notice of appeal may be extended by fifteen days if a motion for extension of time to file the notice of appeal is timely filed. *See* Tex. R. App. P. 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). A motion for new trial, however, does not extend the appellate deadlines in an accelerated appeal. *See In re K.A.F.*, 160 S.W.3d at 927; *In re R.B.M.*, 338 S.W.3d 755, 756 (Tex. App.—Houston [14th Dist.] 2011, no pet.).

Although S.B. timely filed a motion for new trial, she concedes that her notice of appeal was not filed timely, and she did not file a motion for extension of time to file her notice of appeal in a timely manner. Thus, we must deny her motion for this appeal to go forward, and we dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a), 43.2(f); *see In re K.A.F.*, 160 S.W.3d at 927 (holding that untimely notice of appeal failed to invoke jurisdiction of appellate court); *In re R.B.M.*, 338 S.W.3d at 757–58 (stating that “[w]e are aware of no authority allowing an appeal to continue because of ineffective assistance of counsel in failing to timely file the appeal” and dismissing appeal in parental-rights termination case for want of jurisdiction when notice of appeal was untimely).

Melissa Goodwin, Justice

Before Justices Puryear, Pemberton, and Goodwin

Dismissed for Want of Jurisdiction

Filed: June 27, 2017