



NUMBERS 13-16-00149-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN THE INTEREST OF J.R., III, J.R., and J.A.R., CHILDREN

**On appeal from the County Court at Law No. 5
of Nueces County, Texas.**

Memorandum Opinion

**Before Justices Benavides, Perkes, and Longoria
Memorandum Opinion Per Curiam**

Appellant B.B. attempts to appeal from a judgment terminating her parental rights over her children, J.R., III, J.R., and J.A.R signed on February 9, 2016. Appellant did not file a notice of appeal until March 8, 2016 and did not file a motion for extension of time to file her notice of appeal. We dismiss the appeal for want of jurisdiction.

In suits where the termination of parental rights is in issue, an appeal of a final order is governed by the rules for accelerated appeals in civil cases. See TEX. FAM. CODE ANN. §§ 109.002(a), 263.405(a) (West, Westlaw through 2015 R.S.). In such suits the

notice of appeal is due twenty days after the judgment is signed. TEX. R. APP. P. 26.1(b). Post-trial motions or requests for findings of fact or conclusions of law do not extend the deadline to perfect the appeal. *Id.* R. 28.1(b). The appellate court may extend the time to file the notice of appeal if, within fifteen days after the deadline for filing the notice of appeal, the party files the notice of appeal in the trial court and files in the appellate court a motion for extension of time that complies with the appellate rules. *Id.* R. 26.3; *see In re K.A.F.*, 160 S.W.3d 923, 926–27 (Tex. 2005).

On April 13, 2016, the Court informed appellant, pursuant to Texas Rule of Appellate Procedure 42.3(a), that her notice of appeal was untimely.¹ The Clerk of this Court notified appellant of this defect so that steps could be taken to correct the defect, if it could be done. *See* TEX. R. APP. P. 37.3, 42.3(b), (c). Appellant was advised that, if the defect was not corrected within ten days from the date of receipt of this notice, the appeal would be dismissed for want of jurisdiction. Appellant filed an amended notice of appeal on April 26, 2016, but provided no explanation for the late filing.

A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617–18, 619 (1997) (construing the predecessor to Rule 26). However, appellant must provide a reasonable explanation for

¹ The Court previously sent the same notice to appellant on March 15, 2016. The Court learned in the interim that appellant’s previous appellate counsel had withdrawn and not yet been replaced. We sent the notice again on April 13, 2016 after the order appointing her current appellate counsel was filed with this Court.

the late filing: it is not enough to simply file a notice of appeal. *Id.*; *Woodard v. Higgins*, 140 S.W.3d 462, 462 (Tex. App.—Amarillo 2004, no pet.).²

Appellant's notice of appeal was untimely, and we lack jurisdiction over this appeal. Because this Court is not authorized to extend the time for perfecting an appeal except as provided by Texas Rules of Appellate Procedure 26.1 and 26.3, we DISMISS the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

PER CURIAM

Delivered and filed the
28th day of April, 2016.

² Appellant's amended notice of appeal recites that the order terminating her parental rights was signed on January 27, 2016. However, the copy of the final order of termination on file with this Court is signed and dated February 9, 2016. If the date on appellant's amended notice of appeal is correct, appellant's original notice of appeal was not filed within the fifteen day grace period in which we may grant a motion for extension of time.