



**NUMBER 13-16-00177-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**BENITO COVARRUBIAS RAMIREZ,**

**Appellant,**

**v.**

**THE STATE OF TEXAS,**

**Appellee.**

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**On appeal from the 208th District Court  
of Harris County, Texas.**

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**MEMORANDUM OPINION**

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

Appellant, Benito Covarrubias Ramirez, attempted to perfect an appeal from a conviction for murder.<sup>1</sup> We dismiss the appeal for want of jurisdiction.

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<sup>1</sup> This case is before the Court on transfer from the First Court of Appeals in Houston pursuant to a docket equalization order issued by the Supreme Court of Texas. See TEX. GOV'T CODE ANN. § 73.001 (West, Westlaw through 2015 R.S.).

This Court's appellate jurisdiction in a criminal case is invoked by a timely filed notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Absent a timely filed notice of appeal, a court of appeals does not have jurisdiction to address the merits of the appeal and can take no action other than to dismiss the appeal for want of jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998).

The trial court imposed sentence in this matter on December 11, 2014. Appellant filed his notice of appeal on March 4, 2016. On April 8, 2016, the Clerk of this Court notified appellant that it appeared that the appeal was not timely perfected and that the appeal would be dismissed if the defect was not corrected within ten days from the date of receipt of the Court's directive. Appellant has not filed a response to the Court's directive. Additionally, the trial court has certified that this "is a plea-bargain case, and the defendant has NO right of appeal." See TEX. R. APP. P. 25.2(a)(2).

Unless a motion for new trial has been timely filed, a notice of appeal must be filed within thirty days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order. TEX. R. APP. P. 26.2(a)(1). Where a timely motion for new trial has been filed, the notice of appeal must be filed within ninety days after the day sentence is imposed or suspended in open court. See *id.* 26.2(a)(2). The time within which to file the notice may be enlarged if, within fifteen days after the deadline for filing the notice, the party files the notice of appeal and a motion complying with Rule 10.5(b) of the Texas Rules of Appellate Procedure. See *id.* 26.3.

Appellant's notice of appeal, filed more than a year after sentence was imposed, was untimely, and accordingly, we lack jurisdiction over the appeal. See *Slaton*, 981 S.W.2d at 210. Appellant may be entitled to an out-of-time appeal by filing a

post-conviction writ of habeas corpus returnable to the Texas Court of Criminal Appeals; however, the availability of that remedy is beyond the jurisdiction of this Court. See TEX. CODE CRIM. PROC. ANN. art. 11.07, § 3(a) (West, Westlaw through 2015 R.S.); see also *Ex parte Garcia*, 988 S.W.2d 240 (Tex. Crim. App. 1999).

The appeal is DISMISSED FOR WANT OF JURISDICTION.

PER CURIAM

Do not publish.  
See TEX. R. APP. P. 47.2(b).

Delivered and filed the  
12th day of May, 2016.