



NUMBER 13-16-00276-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

DEBRA WORTHINGTON,

Appellant,

v.

BILLY WORTHINGTON JR.,

Appellee.

**On appeal from the 347th District Court
of Nueces County, Texas.**

MEMORANDUM OPINION

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

Appellant, Debra Worthington, proceeding pro se, attempted to perfect an appeal from an agreed final decree of divorce signed on April 6, 2016 in cause number 2015-FAM-4390-H in the 347th District Court of Nueces County, Texas. Appellant did not file her notice of appeal until May 18, 2016. On May 19, 2016, the Clerk of this Court notified

appellant that it appeared that her appeal was not timely perfected. Appellant was advised that her appeal would be dismissed if the defect was not corrected within ten days from the date of receipt of the Court's directive. Appellant failed to respond to the Court's notice.

Texas Rule of Appellate Procedure 26.1 provides that an appeal is perfected when a notice of appeal is filed within thirty days after the judgment is signed, unless a motion for new trial is timely filed. TEX. R. APP. P. 26.1(a)(1). Where a timely motion for new trial or motion to reinstate has been filed, the notice of appeal shall be filed within ninety days after the judgment is signed. See *id.* 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 Texas Rule of Appellate Procedure 26). However, appellant must provide a reasonable explanation for 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.); *In re B.G.*, 104 S.W.3d 565, 567 (Tex. App.—Waco 2002, no pet.).

Because the record does not indicate that appellant filed a motion for new trial, her notice of appeal was due on May 6, 2016, within thirty days after judgment, but the notice of appeal was not filed until May 18, 2016. Although appellant's notice of appeal was filed within the fifteen-day grace period provided by Texas Rule of Appellate Procedure 26.3, appellant did not respond to this Court's notice and provide a reasonable

explanation for her failure to timely file the notice of appeal. Accordingly, we DISMISS the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a),(b),(c).

PER CURIAM

Delivered and filed the
23rd day of June, 2016.