



NUMBER 13-16-00330-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

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MANUEL ABELARDO ROJAS,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

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On appeal from the 370th District Court  
of Hidalgo County, Texas.

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## MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Garza and Longoria  
Memorandum Opinion Per Curiam**

On June 16, 2016, appellant Manuel Abelardo Rojas, proceeding pro se, attempted to perfect an appeal from a conviction for indecency with a child by contact. See TEX. PEN. CODE ANN. § 21.11 (West, Westlaw through 2015 R.S.). Sentence was imposed in this cause on August 13, 2008. We dismiss the appeal for want of jurisdiction.

On June 22, 2016, the Clerk of this Court notified appellant that it appeared that the appeal was not timely perfected. Appellant was advised 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 did not correct the defect or file a response to this Court's notice.

Texas Rule of Appellate Procedure 26.2 provides that an appeal is perfected when notice of appeal is filed within thirty days after the day sentence is imposed or suspended in open court unless a motion for new trial is timely filed. TEX. R. APP. P. 26.2(a)(1); see *Rodarte v. State*, 860 S.W.2d 108, 109 (Tex. Crim. App. 1993); *Lair v. State*, 321 S.W.3d 158, 159 (Tex. App.—Houston [1st Dist.] 2010, pet. ref'd). The time within which to file the notice of appeal 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 TEX. R. APP. P. 26.3.

Absent a timely filed notice of appeal, a court of appeals does not obtain jurisdiction to address the merits of the appeal in a criminal case 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). 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.  
TEX. R. APP. P. 47.2(b).

Delivered and filed the  
11th day of August, 2016.