



NUMBER 13-19-00645-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

LIDIA MARTINEZ,

Appellant,

v.

NAVY ARMY COMMUNITY CREDIT UNION,

Appellee.

On appeal from the 319th District Court
of Nueces County, Texas.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Perkes
Memorandum Opinion by Chief Justice Contreras**

Appellant, Lidia Martinez, attempted to perfect an appeal from a judgment entered by the 319th District Court of Nueces County, Texas, in cause number 2019DCV-3270-G. Judgment in this cause was signed on August 28, 2019. A motion for new trial was filed on September 30, 2019. Pursuant to Texas Rule of Appellate Procedure 26.1,

appellant's notice of appeal was due on November 26, 2019, but was not filed until December 10, 2019.

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 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.).

On December 10, 2019, 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. Appellant was advised that, if the defect was not corrected within ten days from the date of receipt of this Court's letter, the appeal would be dismissed. To date, no response has been received from appellant providing a reasonable explanation for the late filing of the notice of appeal.

The Court, having considered the documents on file and appellant's failure to correct the defect of which she was notified, is of the opinion that the appeal should be dismissed. See *id.* 42.3(b),(c). Accordingly, the appeal is DISMISSED for want of jurisdiction.

DORI CONTRERAS
Chief Justice

Delivered and filed the 16th
day of January, 2020.