



NUMBER 13-20-00323-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

**ISAAC G. RODRIGUEZ SR.
D/B/A I & R TRUCKING AND
RODRIGUEZ TRUCKING,**

Appellants,

v.

**DENISE MAREZ, INDIVIDUALLY
AND ON BEHALF OF
THE ESTATE OF JUAN PEREZ,**

Appellees.

**On appeal from the 156th District Court
of San Patricio County, Texas.**

MEMORANDUM OPINION

**Before Justices Benavides, Hinojosa, and Tijerina
Memorandum Opinion by Justice Hinojosa**

This cause is before the Court on its own motion. On July 31, 2020, appellants filed a notice attempting to appeal a final judgment entered by the 156th Judicial District

of San Patricio County, Texas, in cause number S-17-5182CV-B. The final judgment was signed on January 7, 2020, more than six months before the notice of appeal was filed. We now dismiss this appeal for lack of jurisdiction.

Texas Rule of Appellate Procedure 26.1 provides that an appeal is perfected when 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 has been filed, notice of appeal shall be filed within ninety days after the judgment is signed. *Id.* R. 26.1(a). A motion for new trial was filed in this matter; however, the notice of appeal was filed more than six months after the judgment well beyond the ninety-day limit.

On July 31, 2020, the Clerk of the Court notified appellants of this defect so that steps could be taken to correct the defect, if it could be done. Appellants were advised that, if the defect was not corrected within ten days from the date of receipt of the Court's letter, the appeal would be dismissed. On December 8, 2020, appellants filed an amended notice of appeal. Appellants argue the trial court's denial of appellants' motion for judgment notwithstanding the verdict, or in the alternative the denial of appellants' motion for new trial, and the related trial court activity extended the deadline for perfecting the appeal.

A denial of a motion for new trial is not independently appealable and does not start a new timetable for perfecting the appeal. *State Office of Risk Mgmt. v. Berdan*, 335 S.W.3d 421, 428 (Tex. App.—Corpus Christi—Edinburg 2011, pet. denied). As such,

appellants' notice of appeal is untimely and the amended notice of appeal does not cure the defect.

The Court, having examined and fully considered the documents on file and appellants' failure to timely perfect their appeal, is of the opinion the appeal should be dismissed for want of jurisdiction. Accordingly, the appeal is dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

LETICIA HINOJOSA
Justice

Delivered and filed on the
4th day of February, 2021.