



NUMBER 13-22-00325-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

MIRANDA MARTINEZ,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 36th District Court
of San Patricio County, Texas.**

MEMORANDUM OPINION

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

The cause is before the Court on appellant's motion for extension of time to perfect appeal. Appellant, Miranda Martinez, attempted to perfect an appeal from a judgment in trial court cause S-15-3079-3CR. We dismiss the appeal for want of jurisdiction.

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 sentence was imposed by the trial court in this matter on May 10, 2022, and appellant filed her notice of appeal on June 10, 2022. On July 25, 2022, the Clerk of this Court notified appellant that it appeared the appeal was not timely perfected and would be dismissed if the defect was not corrected within ten days from the date of receipt of the Court's directive. On August 4, 2022, appellant filed a motion for extension of time to perfect appeal.

Unless a motion for new trial is 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 is timely 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 thirty-one days after sentence was imposed, was untimely, and the motion for extension of time to perfect appeal was filed outside of the 15-day grace period. Accordingly, we lack jurisdiction over the appeal. See *Slaton*, 981 S.W.2d at 210.

The Court, having examined and fully considered the documents on file and appellant's failure to timely perfect her appeal, is of the opinion that the appeal should be dismissed for want of jurisdiction. 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); see also *Ex parte Garcia*, 988 S.W.2d 240 (Tex. Crim. App. 1999).

The appeal hereby is dismissed for want of jurisdiction. Accordingly, appellant's motion for extension of time to perfect appeal is also dismissed for want of jurisdiction.

NORA L. LONGORIA
Justice

Do not publish.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

Delivered and filed on the
25th day of August, 2022.