

NO. 12-10-00407-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*CODY WILKINSON,
APPELLANT*

§

APPEAL FROM THE THIRD

V.

§

JUDICIAL DISTRICT COURT

*WARDEN RUPERT, ET AL,
APPELLEES*

§

ANDERSON COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of jurisdiction pursuant to Texas Rule of Appellate Procedure 42.3(a). The trial court's judgment was signed on September 28, 2010. Under rule of appellate procedure 26.1, the notice of appeal must be filed within thirty days after the judgment is signed. Appellant, Cody Wilkinson, did not file a motion for new trial. *See* TEX. R. APP. P. 26.1(a) (providing that notice of appeal must be filed within ninety days after judgment signed if any party timely files motion for new trial). Therefore, his notice of appeal was due to have been filed no later than October 28, 2010. Wilkinson did not file his notice of appeal until November 8, 2010. Because the notice of appeal was not filed on or before October 28, 2010, it was untimely.

On December 2, 2010, this court notified Wilkinson pursuant to Texas Rules of Appellate Procedure 37.1 and 42.3 that his notice of appeal was untimely, but that this court would imply a motion to extend the time for filing the notice of appeal. *See Verburgt v. Dorner*, 959 S.W.2d 615, 615 (Tex. 1997). Wilkinson was further informed that the appeal would be dismissed unless, on or before December 13, 2010, he informed the court in writing of facts that reasonably explain his need for an extension of time to file the notice of appeal. The deadline for responding to this court's notice has expired, and Wilkinson has not responded to the notice.

Because this court is not authorized to extend the time for perfecting an appeal except as provided by Texas Rules of Appellate Procedure 26.1 and 26.3, the appeal is *dismissed for want of jurisdiction*. See TEX. R. APP. P. 42.3(a).

Opinion delivered December 22, 2010.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)