

NO. 12-11-00404-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

CLEVELAND WADE THOMPSON, § *APPEAL FROM THE 7TH*
APPELLANT

V. § *JUDICIAL DISTRICT COURT*

THE STATE OF TEXAS, § *SMITH COUNTY, TEXAS*
APPELLEE

MEMORANDUM OPINION
PER CURIAM

This appeal is being dismissed for want of jurisdiction pursuant to Texas Rule of Appellate Procedure 42.3(a). On April 15, 2011, the trial court signed an order dismissing a suit filed by Appellant Cleveland Wade Thompson in which he asserted a claim for wrongful imprisonment and resulting damages. On December 19, 2011, Thompson filed a notice of appeal purporting to appeal an order of dismissal signed on December 8, 2011. However, no order of dismissal was signed on that date in this cause (trial court cause number 11-0126-B).¹

Under the rules of appellate procedure, the notice of appeal must be filed within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. Thompson 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, Thompson's notice of appeal was due to have been filed no later than May 16, 2011. Thompson did not file his notice of appeal until December 19, 2011. Because Thompson's notice of appeal was not filed on or before May 16, 2011, it was untimely, and this court has no jurisdiction of the appeal.

¹ An order of dismissal was signed in a companion case (trial court cause number 11-3216-A; appellate cause number 12-11-00403-CV) on December 8, 2011. However, that order makes no reference to the instant cause number and was signed by a different judge in a different trial court.

On January 5, 2012, this court notified Thompson, pursuant to Texas Rules of Appellate Procedure 37.1 and 42.3, that his notice of appeal was untimely and there was no timely motion for an extension of time to file the notice of appeal. Thompson was further notified that the appeal would be dismissed unless, on or before January 17, 2012, the information received in this appeal was amended to show the jurisdiction of this court. Thompson timely responded to this court's notice, but did not establish that this court's jurisdiction of the appeal. 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 January 18, 2012.

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

(PUBLISH)



**COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT**

JANUARY 18, 2012

NO. 12-11-00404-CV

CLEVELAND WADE THOMPSON,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 7th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 11-0126-B)

THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this court that this court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

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