

NO. 12-12-00067-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***TEXAN NURSING & REHAB
OF GLADEWATER, LLC,
APPELLEE***

§

APPEAL FROM THE

V.

§

COUNTY COURT AT LAW #2

***CHERYL EVANS,
APPELLEE***

§

GREGG 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 November 15, 2011. As a general rule, the notice of appeal must be filed within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. Appellant filed a motion for new trial on December 20, 2011, but the motion was not timely. *See* TEX. R. CIV. P. 329b (providing that motion for new trial must be filed within thirty days after judgment is signed. But if a timely motion for new trial is filed, the notice of appeal must be filed within ninety days after the judgment is signed. TEX. R. APP. P. 26.1(a). Therefore, Appellant's notice of appeal was due to have been filed no later than December 15, 2011. Appellant did not file its notice of appeal until February 15, 2012. Because Appellant's notice of appeal was not filed on or before December 15, 2011, it was untimely, and this court has no jurisdiction of the appeal.

On February 17, 2012, this court notified Appellant, pursuant to Texas Rules of Appellate Procedure 37.1 and 42.3, that its notice of appeal was untimely and there was no timely motion for an extension of time to file the notice of appeal. Appellant was further informed that the appeal would be dismissed unless, on or before February 27, 2012, the information was amended

to show the jurisdiction of this court. The February 27, 2012 deadline has now passed, and Appellant has not shown the jurisdiction of this court.

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 March 7, 2012.

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

(PUBLISH)



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

MARCH 7, 2012

NO. 12-12-00067-CV

TEXAN NURSING & REHAB OF GLADEWATER, LLC,
Appellant
V.
CHERYL EVANS,
Appellee

Appeal from the County Court at Law #2
of Gregg County, Texas. (Tr.Ct.No. 2010-1833-CCL2)

THIS CAUSE came to be heard on the appellate record filed herein; 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.*

THE STATE OF TEXAS M A N D A T E

TO THE COUNTY COURT AT LAW #2 of GREGG COUNTY, GREETING:

Before our Court of Appeals for the 12th Court of Appeals District of Texas, on the 7th day of March, 2012, the cause upon appeal to revise or reverse your judgment between

TEXAN NURSING & REHAB OF GLADEWATER, LLC, Appellant

NO. 12-12-00067-CV; Trial Court No. 2010-1833-CCL2

By *per curiam* opinion.

CHERYL EVANS, Appellee

was determined; and therein our said Court made its order in these words:

“THIS CAUSE came to be heard on the appellate record filed herein; 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.”

WHEREAS, WE COMMAND YOU to observe the order of our said Court of Appeals for the Twelfth Court of Appeals District of Texas in this behalf, and in all things have it duly recognized, obeyed, and executed.

WITNESS, THE HONORABLE JAMES T. WORTHEN, Chief Justice of our Court of Appeals for the Twelfth Court of Appeals District, with the Seal thereof affixed, at the City of Tyler, this the _____ day of _____, 201____.



CATHY S. LUSK, CLERK

By: _____
Deputy Clerk