

NO. 12-13-00380-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***THEODORE ROSEVELT LEONARD,
APPELLANT***

§ *APPEAL FROM THE 3RD*

V.

§ *JUDICIAL DISTRICT COURT*

***PAMELA PORTER LEONARD,
APPELLEE***

§ *HOUSTON 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 22, 2010. 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. 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. *See* TEX. R. APP. P. 26.1(a). To be timely, a motion for new trial must be filed within thirty days after the judgment is signed. TEX. R. CIV. P. 329b(a). Appellant did not file his motion for new trial until December 13, 2013, which is more than thirty days after the judgment was signed. Therefore, Appellant's motion for new trial did not extend the time for filing the notice of appeal. Consequently, the notice of appeal was due to have been filed on or before December 21, 2010. Appellant did not file his notice of appeal until December 4, 2013. Because Appellant's notice of appeal was not filed on or before December 21, 2010, it was untimely, and this court has no jurisdiction of the appeal.

On January 10, 2014, this court notified Appellant, 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. *See* TEX. R. APP. P. 26.3. Appellant was

further informed that the appeal would be dismissed unless, on or before January 21, 2014, the information in the appeal was amended to show the jurisdiction of this court. The January 21, 2014 deadline has now passed, and Appellant has neither shown the jurisdiction of this court nor otherwise responded to its January 10, 2014 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 January 31, 2014.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JANUARY 31, 2014

NO. 12-13-00380-CV

THEODORE ROSEVELT LEONARD,
Appellant
V.
PAMELA PORTER LEONARD,
Appellee

Appeal from the 3rd District Court
of Houston County, Texas (Tr.Ct.No. 07D-040)

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.