

NO. 12-15-00057-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN THE MATTER OF THE § *APPEAL FROM THE*
GUARDIANSHIP OF JAMES N. CONIS, § *COUNTY COURT AT LAW #3*
AN INCAPACITATED PERSON § *SMITH COUNTY, TEXAS*

MEMORANDUM OPINION
PER CURIAM

This appeal is being dismissed for want of jurisdiction. The trial court’s judgment was signed on December 1, 2014. 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. Appellant 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, Appellant’s notice of appeal was due to have been filed no later than December 31, 2014. However, Appellant filed his notice of appeal on March 4, 2015, along with a motion to extend the time for filing his notice of appeal to March 4. *See* TEX. R. APP. P. 26.3.

Rule 26.3 provides that a motion to extend the time for filing a notice of appeal must be filed within fifteen days after the deadline for filing the notice of appeal. *Id.* Appellant’s notice of appeal was due to have been filed on or before December 31, 2014. Therefore, his motion for extension of time was due on or before January 15, 2015. Because the motion was not filed until March 4, 2015, it was untimely and must be denied.

A timely notice of appeal must be filed in order to invoke this court’s jurisdiction. *See* TEX. R. APP. P. 25.1(b). “Once the period for granting a motion for extension of time under Rule [26.3] has passed, a party can no longer invoke the appellate court’s jurisdiction.” *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Neither Appellant’s notice of appeal nor his motion

for extension of time was timely filed. Accordingly, we *overrule* the motion for extension of time and *dismiss* the appeal *for want of jurisdiction*.

Opinion delivered March 11, 2015.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

MARCH 11, 2015

NO. 12-15-00057-CV

**IN THE MATTER OF THE GUARDIANSHIP
OF JAMES N. CONIS, AN INCAPACITATED PERSON**

Appeal from the County Court at Law No. 3
of Smith County, Texas (Tr.Ct.No. 39,676-G)

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., Hoyle, J. and Neeley, J.