

**NOS. 12-17-00060-CR
12-17-00061-CR**

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***NEHEMIAH STEELE, JR.,
APPELLANT***

§ ***APPEALS FROM THE 7TH***

V.

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,
APPELLEE***

§ ***SMITH COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Appellant, Nehemiah Steele, Jr., appeals his two convictions for evading arrest or detention. In trial court cause number 007-1590-11, a jury convicted Appellant of evading arrest or detention with a motor vehicle, enhanced by two prior convictions, in September 2012. He was sentenced to imprisonment for forty-two years. Also, in September 2012, in trial court cause number 007-1591-11, Appellant pleaded guilty to evading arrest or detention with a previous conviction, and received imprisonment for twenty years, to run concurrently. On January 19, 2017, Appellant filed a pro se “notice of out of time appeal for illegal sentence” in both cases. The notice of appeal was filed with this Court on February 21. On February 22, this Court notified Appellant that the information received in the appeals failed to show the jurisdiction of this Court, i.e., there is no final judgment or appealable order. *See* TEX. R. APP. P. 26.2(a). The notice warned that, unless the information was amended on or before March 24 to show the jurisdiction of this Court, the appeals would be dismissed. *See* TEX. R. APP. P. 37.2, 44.3. This deadline has passed, and Appellant has neither shown the jurisdiction of this Court nor otherwise responded to the February 22, 2017 notice.

In a criminal case, the notice of appeal must be filed within thirty days after sentence is imposed or within ninety days after that date if a motion for new trial is filed. TEX. R. APP. P. 26.2(a). Appellant's sentence was imposed on September 4, 2012, and he did not file a motion for new trial. Therefore, his notice of appeal was due to have been filed no later than October 4, 2012. However, Appellant did not file his notice of appeal until January 19, 2017. Because Appellant's notice of appeal was not filed on or before October 4, 2012, it was untimely, and this Court has no jurisdiction over the appeals.

Only the court of criminal appeals has jurisdiction to grant an out-of-time appeal. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); *see also Kossie v. State*, No. 01-16-00738-CR, 2017 WL 631842, at *1-2 (Tex. App.—Houston [1st Dist.] Feb. 16, 2017, no pet. h.) (mem. op., not designated for publication) (dismissing for lack of jurisdiction because appellant could not pursue out of time appeal without permission from court of criminal appeals). Absent an order from the court of criminal appeals granting Appellant permission to pursue an out of time appeal, this Court lacks jurisdiction over Appellant's appeals. *See* TEX. CODE CRIM. PROC. ANN. art 11.07 § 3(a) (West 2005). Accordingly, we **dismiss** Appellant's appeals for **want of jurisdiction**. *See* TEX. R. APP. P. 43.2(f).

Opinion delivered March 31, 2017.

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

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

MARCH 31, 2017

NO. 12-17-00060-CR

NEHEMIAH STEELE, JR.,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 7th District Court

of Smith County, Texas (Tr.Ct.No. 007-1590-11)

THIS CAUSE came on to be heard on the appellate record, and the same being considered, it is the opinion of this Court that it 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.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

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NEHEMIAH STEELE, JR.,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 7th District Court

of Smith County, Texas (Tr.Ct.No. 007-1591-11)

THIS CAUSE came on to be heard on the appellate record, and the same being considered, it is the opinion of this Court that it 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.