

NO. 12-17-00211-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***JIMMY D. MARTIN,
APPELLANT***

§ ***APPEAL FROM THE 3RD***

V.

***M. WRIGHT, PAUL SHRODE, J.
ASSAYA, GALVESTON HOSPITAL,
JOHN SEALY, PROVIDER
BROVWER, AND PROVIDER
ASOMEBAWG,
APPELLEES***

§ ***JUDICIAL DISTRICT COURT***

§ ***ANDERSON COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of jurisdiction. The trial court's order dismissing Appellant's suit was signed on May 16, 2017. 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. The record does not indicate that Appellant filed a motion for new trial, motion to modify, motion to reinstate, or request for findings of fact and conclusions of law. *See* TEX. R. APP. P. 26.1(a). Thus, Appellant's notice of appeal was due on or before June 15. Appellant filed his notice of appeal on July 5, thus, it was untimely.

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. TEX. R. APP. P. 26.3. On July 6, this Court notified Appellant that the information received in this appeal does not show the jurisdiction of this Court, i.e., there is no timely notice of appeal. *See* TEX. R. APP. P. 26.1, 37.1. However, Appellant was further notified that, pursuant to Rule 26.3 and *Verburgt v. Dornier*, 959 S.W.2d 615 (Tex. 1997), we would imply a motion to extend time for filing the notice of appeal. We informed Appellant that Rule 26.3 requires a motion complying with Rule

10.5(b). *See* TEX. R. APP. P. 10.5(b), 26.3(b). Thus, we notified Appellant that the appeal would be dismissed for want of jurisdiction unless on or before July 17, 2017, Appellant informed this Court, in writing, of facts that reasonably explained his need for an extension of time to file the notice of appeal. *See* TEX. R. APP. P. 42.3. The deadline for responding to this Court's notice has expired, and Appellant has not responded to the 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 July 31, 2017.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JULY 31, 2017

NO. 12-17-00211-CV

JIMMY D. MARTIN,

Appellant

V.

**M. WRIGHT, PAUL SHRODE, J. ASSAYA, GALVESTON HOSPITAL,
JOHN SEALY, PROVIDER BROVWER, AND PROVIDER ASOMEBAWG,**

Appellees

Appeal from the 3rd District Court
of Anderson County, Texas (Tr.Ct.No. DCCV17-226-3)

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.