

NO. 12-17-00233-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***JOHN FORRESTER,
APPELLANT***

§ ***APPEAL FROM THE 115TH***

V.

§ ***JUDICIAL DISTRICT COURT***

***RON MEISSNER AND CONNIE
MEISSNER,
APPELLEES***

§ ***UPSHUR COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of jurisdiction. The trial court's judgment was signed on April 12, 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. Appellant filed a motion for new trial on May 12. *See* TEX. R. APP. P. 26.1(a). Thus, Appellant's notice of appeal was due on or before July 11. Appellant filed his notice of appeal on July 17, 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 28, 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 August 7, 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*.¹ *See* TEX. R. APP. P. 42.3(a).

Opinion delivered August 9, 2017.

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

(PUBLISH)

¹ We also note that, on July 28, 2017, the clerk of this Court notified Appellant that the filing fee in this appeal is due. *See* TEX. R. APP. P. 5. Appellant was informed that failure to remit the filing fee on or before August 7, 2017, would result in the Court's taking appropriate action, including dismissal of the case without further notice. *See* TEX. R. APP. P. 42.3(c). The date for remitting the filing fee has passed, and Appellant has not complied with the Court's request. Thus, Appellant's appeal is also subject to dismissal for failure, after notice, to comply with Rule 5. *See id.*



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

AUGUST 9, 2017

NO. 12-17-00233-CV

JOHN FORRESTER,

Appellant

V.

RON MEISSNER AND CONNIE MEISSNER,

Appellees

Appeal from the 115th District Court
of Upshur County, Texas (Tr.Ct.No. 16-00056)

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.