

NO. 12-17-00288-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

LEMUEL DAVID EMANUEL,
APPELLANT

§ ***APPEAL FROM THE 7TH***

V.

§ ***JUDICIAL DISTRICT COURT***

THE STATE OF TEXAS,
APPELLEE

§ ***SMITH COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

Lemuel David Emanuel was convicted of sexual assault of a child and sentence was imposed on September 3, 2014. Acting pro se, Appellant filed a notice of appeal on September 13, 2017, in which he seeks permission to pursue an out of time appeal.

On September 22, 2017, this Court notified Appellant that the information received failed to show the jurisdiction of the Court, i.e., there was no notice of appeal filed within the time allowed by the rules of appellate procedure and no timely motion for an extension of time to file the notice of appeal. See TEX. R. APP. P. 26.2, 26.3. We informed Appellant that the appeal would be dismissed unless the information was amended on or before October 2 to show this Court's jurisdiction.

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 appeal.

See TEX. CODE CRIM. PROC. ANN. art 11.07 § 3(a) (West 2005). Because this Court is not authorized to extend the time for perfecting an appeal except as provided by Texas Rules of Appellate Procedure 26.2 and 26.3, we *dismiss* Appellant's appeal for *want of jurisdiction*. See TEX. R. APP. P. 43.2(f).

Opinion delivered October 11, 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(DO NOT PUBLISH)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

OCTOBER 11, 2017

NO. 12-17-00288-CR

LEMUEL DAVID EMANUEL,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 7th District Court
of Smith County, Texas (Tr.Ct.No. 007-1633-13)

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.