

Dismissed and Opinion filed February 17, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-00026-CV

IN THE INTEREST OF SHERI LYNN WINTER, A CHILD

**On Appeal from the 257th District Court
Harris County, Texas
Trial Court Cause No. 99-14932**

OPINION

This is an attempted appeal from an order, signed April 28, 1999. A motion for new trial was timely filed on May 24, 1999. Notice of appeal was filed January 14, 2000.

When appellant has filed a timely motion for new trial, motion to modify the judgment, motion to reinstate, or a request for findings of fact and conclusions of law, the notice of appeal must be filed within ninety days after the date the judgment is signed. *See* TEX. R. APP. P. 26.1(a).

Trena L. Breckles and John A. Breckles did not file a timely notice of appeal. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Rule 26.1, but within the fifteen-day

grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (1997) (construing the predecessor to Rule 26). However, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. *See* TEX. R. APP. P. 26.3, 10.5(b)(1)(C); *Verburgt*, 959 S.W.2d at 617-18. The Breckle's notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

On January 14, 2000, the Breckles filed a motion to request extension of statute of limitations on appeal, claiming that they did not receive notice of the default hearing and were not given time to obtain an attorney. The record shows that Trena Breckles (formerly Winter) was represented by counsel when she filed a timely motion for new trial.

On January 21, 2000, the Breckles filed a request for temporary orders for “child health.” This court is without jurisdiction to entertain motions for temporary orders affecting the parent-child relationship. *See* TEX. FAM. CODE ANN. § 155.001(c) (Vernon Supp. 1996).

On January 31, 2000, notification was transmitted to all parties of the Court’s intent to dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). No response was received.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed February 17, 2000.

Panel consists of Justices Yates, Fowler, and Edelman.

Do Not Publish — TEX. R. APP. P. 47.3(b).