

Dismissed and Opinion filed March 29, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-00212-CV

NICOLE ANDERSON, Appellant

V.

TEXAS DEPARTMENT OF PROTECTIVE & REGULATORY SERVICES, Appellee

**On Appeal from the 314th District Court
Harris County, Texas
Trial Court Cause No. 00-02829J**

MEMORANDUM OPINION

This is an attempted appeal from an order terminating appellant's parental rights, signed October 30, 2000. Appellant filed a timely motion for new trial on November 20, 2000. Appellant's notice of appeal was not filed until February 19, 2001.

On March 9, 2001, appellee filed a motion to dismiss the appeal for want of jurisdiction. Appellant's counsel filed a response, claiming that she was unable to locate the appellant to obtain a signature on an affidavit of inability to give security for costs. Because appellant's counsel filed the notice of appeal as soon as she obtained the signed affidavit, counsel requests that appellant be allowed to proceed with her appeal.

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). Appellant's notice of appeal was not filed timely. 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. Appellant's notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

Appellant's response fails to demonstrate that this Court has jurisdiction to entertain the appeal. We grant appellee's motion to dismiss.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed March 29, 2001.

Panel consists of Justices Fowler, Yates, and Wittig.

Do Not Publish — TEX.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