

Dismissed and Opinion filed May 3, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-00358-CV

JAMES HENRY DAVIS, III, Appellant

V.

LEAH POUNCY-DAVIS, Appellee

**On Appeal from the 328th District Court
Fort Bend County, Texas
Trial Court Cause No. 112,202**

MEMORANDUM OPINION

This is an attempted appeal from a final decree of divorce signed July 28, 2000. No motion for new trial was filed. Appellant's notice of appeal was not filed until March 15, 2001.

The notice of appeal must be filed within thirty days after the judgment is signed when appellant has not 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. *See* TEX. R. APP. P. 26.1.

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.

On April 12, 2001, 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). Appellant filed no response.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed May 3, 2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy.¹

Do Not Publish — TEX.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

¹ Senior Chief Justice Paul C. Murphy sitting by assignment.