

Dismissed and Opinion filed November 30, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-01303-CV

ADEL RIZKALLAH d/b/a A & L ROAD SERVICE, Appellant

V.

PETER THORNFIELD d/b/a AMERICAN BUILDER & CONSTRUCTION, Appellee

**On Appeal from the County Civil Court at Law No 3
Harris County, Texas
Trial Court Cause No. 717,045**

OPINION

This is an attempted appeal from a judgment signed June 28, 2000. Appellant filed a motion for new trial on July 27, 2000. Appellant's notice of appeal was filed October 18, 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).

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 November 1, 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). Appellant filed no response.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed November 30, 2000.

Panel consists of Chief Justice Murphy, Justices Amidei and Edelman.

Do Not Publish — TEX.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