

Dismissed and Opinion filed October 18, 2001.



In The
Fourteenth Court of Appeals

**NOS. 14-01-00896-CR;
14-01-00897-CR**

JAMES HENRY PREWITT, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause Nos. 858,667 & 859,596**

MEMORANDUM OPINION

After a guilty plea, appellant was convicted of two counts of burglary of a habitation with intent to commit theft and was sentenced on August 7, 2001, in accordance with the plea agreement to 8 years' confinement in the Institutional Division of the Texas Department of Criminal Justice, on each count with the two sentences to run concurrently. No motion for new trial was filed. Appellant's notice of appeal was not filed until September 10, 2001.

A defendant's notice of appeal must be filed within thirty days after sentence is imposed when the defendant has not filed a motion for new trial. *See* TEX. R. APP. P.

26.2(a)(1). A notice of appeal which complies with the requirements of Rule 26 is essential to vest the court of appeals with jurisdiction. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). If an appeal is not timely perfected, a court of appeals does not obtain jurisdiction to address the merits of the appeal. Under those circumstances it can take no action other than to dismiss the appeal. *See id.*

Additionally, Rule 25.2(b)(3) provides that when an appeal is from a judgment rendered on a defendant's plea of guilty or nolo contendere and the punishment assessed does not exceed the punishment recommended by the State and agreed to by the defendant, the notice of appeal must: (1) specify that the appeal is for a jurisdictional defect; (2) specify that the substance of the appeal was raised by written motion and ruled on before trial; or (3) state that the trial court granted permission to appeal. *Id.* Because the time for filing a proper notice of appeal has expired, appellant may not file an amended notice of appeal to correct jurisdictional defects. *State v. Riewe*, 13 S.W.3d 408, 413-14 (Tex. Crim. App. 2000). Because appellant's notice of appeal did not comply with the requirements of Rule 25.2(b)(3), we are without jurisdiction to consider any of appellant's issues, including the voluntariness of the plea. *See Cooper v. State*, 45 S.W.2d 77, 83 (Tex. Crim. App. 2001) (holding that appellant who files general notice of appeal may not appeal voluntariness of negotiated plea).

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed October 18, 2001.
Panel consists of Justices Anderson, Hudson, and Frost.
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