

Dismissed and Opinion filed October 26, 2000.



In The

## Fourteenth Court of Appeals

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NO. 14-00-01227-CR  
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**BRENT A. RUSSELL, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 174th District Court  
Harris County, Texas  
Trial Court Cause No. 798,692**

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### **OPINION**

Appellant was indicted for the offense of burglary of a habitation. Appellant pleaded guilty to the offense without an agreed recommendation on sentencing from the State. On February 26, 1999, the trial court deferred a finding of guilt and placed appellant on ten years deferred adjudication community supervision. On August 12, 1999, the State filed a motion to adjudicate guilt alleging appellant had not abided by certain conditions of his community supervision. Appellant pleaded true to the allegations in the State's motion.

On August 15, 2000, the trial court found appellant guilty and sentenced him to three years in the

Texas Department of Criminal Justice--Institutional Division. No motion for new trial was filed. Appellant's notice of appeal was not filed until September 18, 2000.

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.* There is nothing in the record to establish that the notice of appeal was mailed on or before September 14, 2000, the date the notice of appeal was due under rule 26.2(a)(1). Therefore, appellant is not entitled to the benefit of rule 9.2(b) of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 9.2(b) (stating that document received within ten days after filing deadline is considered timely filed if (1) it was sent to proper clerk by United States Postal Service first-class, express, registered, or certified mail; (2) it was placed in envelope or wrapper properly addressed and stamped; and (3) it was deposited in mail on or before last day for filing).

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed on October 26, 2000.

Panel consists of Justices Yates, Hudson, and Frost.

Do Not Publish — *See* TEX.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