

Dismissed and Opinion filed December 13, 2001.



In The
Fourteenth Court of Appeals

NO. 14-01-00921-CV

JAMES DARCY ROBISON, Appellant

V.

**THE MENTAL HEALTH AND MENTAL RETARDATION AUTHORITY OF
HARRIS COUNTY, Appellee**

**On Appeal from the 164th District Court
Harris County, Texas
Trial Court Cause No. 00-56043**

MEMORANDUM OPINION

This is an attempted appeal from a judgment signed March 28, 2001. The notice of appeal was not filed until September 26, 2001, six months after the judgment. In his notice of appeal, which is entitled "Notice of Restricted Appeal," appellant states he did not participate in the hearing that resulted in the judgment nor did he timely file a postjudgment motion, request for findings of fact and conclusions of law or a notice of appeal. Thus, appellant is attempting to bring a restricted appeal under the auspices of rule 30 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 30. Under that rule, a party who did not

participate in the hearing that resulted in the judgment and who did not timely file a postjudgment motion or request for findings of fact and conclusions of law or a notice of appeal within the time permitted by rule 26.1(a), may file a notice of appeal within six months of the date of the judgment. *Id.*

Appellant, however, is not entitled to the protection of rule 30. The record establishes that on April 2, 2001, appellant filed a postjudgment motion. Thus, appellant *did* file a timely postjudgment motion. A restricted appeal is not an appropriate avenue for those who should reasonably use the more speedy method of appeal. *See Noriega v. Cueves*, 879 S.W.2d 192, 193 (Tex. App.—Houston [14th Dist.] 1994, writ denied). Appellant obviously learned of the judgment less than a week after it was entered—sufficient time to file proper, timely postjudgment motions and/or a notice of appeal. Thus, appellant was not incapable of using the speedier method of appeal.

On November 26, 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 a response on December 5, 2001. In his response, appellant contends he is entitled to the six-month time period of rule 30 because the postjudgment motion he filed was defective. We disagree. Rule 30 merely refers to the timeliness of postjudgment motions, not their validity. *See* TEX. R. APP. P. 30. Thus, appellant's response fails to demonstrate that this Court has jurisdiction to entertain the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed December 13, 2001.

Panel consists of Justices Yates, Anderson, and Edelman.

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