

Dismissed and Opinion filed March 2, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-00096-CV

G. W. MACHINE TOOLS, INC. AND G. W. MAINTENANCE SERVICE, INC.,
Appellants

V.

J. W. JANKOWSKI AND ROBERT WALKER, Appellees

On Appeal from the 21st District Court
Washington County, Texas
Trial Court Cause No. 31376

OPINION

This is an attempted appeal from a judgment signed September 17, 1999. The appeal was from the trial court's order denying appellants' motion for summary judgment, which was based on an assertion of immunity. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(5) (Vernon Supp. 2000). This is an interlocutory appeal and is accelerated. *See id.*; TEX. R. APP. P. 28.1. Appellants filed a motion to reconsider in the trial court; however, such a motion will not extend the time to perfect an appeal in an accelerated appeal from an interlocutory order. *See* TEX. R. APP. P. 28.1. Appellants' notice of appeal was filed January

20, 2000.

Appellants' 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. Appellants' notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

On February 10, 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). Appellants' 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 on March 2, 2000.

Panel consists of Justices Amidei, Anderson and Frost

Do Not Publish — *See* TEX.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