

Opinion filed June 11, 2020



In The
Eleventh Court of Appeals

No. 11-20-00117-CR

ERIC EVERETT LOWRY, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 350th District Court
Taylor County, Texas
Trial Court Cause No. 13010-D**

MEMORANDUM OPINION

Appellant filed an untimely pro se notice of appeal from his judgments of conviction for the offenses of assault of a public servant, resisting arrest, and theft. We dismiss the appeal for want of jurisdiction.

Pursuant to the Texas Rules of Appellate Procedure, a notice of appeal is due to be filed either (1) within thirty days after the date that sentence is imposed or suspended in open court or (2) if the defendant timely files a motion for new trial, within ninety days after the date that sentence is imposed or suspended in open court. TEX. R. APP. P. 26.2(a). A notice of appeal must be in writing and filed with the clerk

of the trial court. TEX. R. APP. P. 25.2(c)(1). The documents on file in this appeal indicate that Appellant's sentences were imposed on June 25, 2019. Appellant filed a pro se notice of appeal on May 7, 2020, more than ten months after he was convicted and sentenced. The notice of appeal was therefore untimely.

Absent a timely filed notice of appeal or the granting of a timely motion for extension of time, we do not have jurisdiction to entertain this appeal. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998); *Olivo v. State*, 918 S.W.2d 519, 522–23 (Tex. Crim. App. 1996); *Rodarte v. State*, 860 S.W.2d 108, 110 (Tex. Crim. App. 1993). We note that we are not authorized to grant a request for an out-of-time appeal. *See Slaton*, 981 S.W.2d at 210.

When the appeal was filed in this court, we notified Appellant by letter that the notice of appeal appeared to be untimely and that the appeal may be dismissed for want of jurisdiction. We requested that Appellant respond to our letter and show grounds to continue. Appellant filed a response, but he has not shown any grounds upon which this court may continue this appeal. We note that Appellant's recently appointed appellate counsel has informed this court that he will be filing an application for writ of habeas corpus to obtain permission from the Court of Criminal Appeals to pursue an out-of-time appeal.

This appeal is dismissed for want of jurisdiction.

June 11, 2020

PER CURIAM

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Bailey, C.J.,
Stretcher, J., and Wright, S.C.J.¹

Willson, J., not participating.

¹Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.