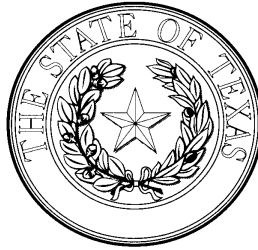


Opinion issued July 14, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00362-CV

LAWRENCE MCNIEL AND SANDRA MCNIEL, Appellants

V.

**NANCY SHEPHERD RECTOR, TRIPLE CROWN ACQUISITIONS, L.L.C.
AND VIAJE OIL AND GAS L.L.C., Appellees**

**On Appeal from the 335th District Court
Washington County, Texas
Trial Court Case No. 37053**

MEMORANDUM OPINION

Appellants, Lawrence McNiel and Sandra McNiel, attempt to appeal from the summary judgment granted by the trial court on March 27, 2020 as to the claims they asserted against appellee Nancy Shepherd Rector (the “Rector

summary judgment”). Rector has filed a motion to dismiss the appeal for want of jurisdiction.¹

Without a timely filed notice of appeal, this Court lacks jurisdiction over the appeal. *See* TEX. R. APP. P. 25.1. Generally, a notice of appeal is due within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. Given that the Rector summary judgment was granted on March 27, 2020, the notice of appeal was due by April 26, 2020. However, appellants did not file their notice of appeal of the Rector summary judgment until May 26, 2020.

Although certain circumstances may extend the deadline for filing a notice of appeal, none of those circumstances is present here. *See* TEX. R. APP. P. 26.1(a). For example, after a jury trial, a timely request for findings of fact and conclusions of law may extend the deadline for filing a notice of appeal, but “findings of fact and conclusions of law are not proper when, as here, the appeal is from a summary judgment, and a request for them does not extend the time in which to file a notice of appeal.” *Scott v. Wood County Com’rs Court*, No. 12-13-00037-CV, 2013 WL 776660, at *1 (Tex. App.—Tyler Feb. 28, 2013, no pet.) (citing *Linwood v. NCNB Tex.*, 885 S.W.2d 102, 103 (Tex. 1994)). Therefore, the request for findings of fact and conclusions of law appellants filed on March 20, 2020, after a summary

¹ Rector’s motion does not seek dismissal of appellants’ appeal of the summary judgment granted on March 5, 2020 in favor of appellees Triple Crown Acquisitions, L.L.C. and Viaje Oil and Gas L.L.C. Appellants filed a notice of appeal of the March 5, 2020 summary judgment on March 26, 2020.

judgment was granted in favor of the other appellees, did not extend the deadline for perfecting the appeal of the Rector summary judgment.

The time to file a notice of appeal may also be extended if, within 15 days after the deadline to file the notice of appeal, a party properly files a motion for extension, or if the appealing party timely files a motion for new trial or a motion to modify the judgment. *See* TEX. R. APP. P. 10.5(b), 26.3, 26.1(a); TEX. R. CIV. P. 329b(a). Appellants did not file any motions that had the effect of extending the deadline to perfect their appeal.

This Court directed appellants on June 18, 2020, to file a written response to Rector's motion to dismiss, providing a detailed explanation and citing relevant portions of the record, statutes, rules, or case law to show that this Court has jurisdiction over this appeal. Appellants were cautioned that if they did not file a written response to the motion to dismiss, the appeal of the Rector summary judgment could be dismissed for want of jurisdiction without further notice. *See* TEX. R. APP. P. 42.3(a), 43.2(f). Appellants did not respond to the Court's directive.

Accordingly, we dismiss the appeal of the March 27, 2020 Rector summary judgment for want of jurisdiction. *See* TEX. R. APP. P. 43.2(a). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Lloyd and Countiss.