

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00082-CR

David Avalos-Escalon, Appellant

v.

The State of Texas, Appellee

**FROM THE 403RD DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-DC-17-100181, THE HONORABLE BRENDA KENNEDY, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant David Avalos-Escalon seeks to appeal from a judgment of conviction for indecency with a child by sexual contact. *See* Tex. Penal Code § 21.11(a)(1). The trial court imposed sentence on April 26, 2018, and because no motion for new trial was filed, the deadline for Avalos-Escalon to file his notice of appeal was May 29, 2018. *See* Tex. R. App. P. 26.2(a)(1)-(2) (providing that appeal is perfected in criminal case when notice of appeal is filed within thirty days after day sentence is imposed or suspended in open court or within ninety days after sentencing, if defendant timely filed motion for new trial). Avalos-Escalon filed his notice of appeal on May 5, 2020.

This Court's appellate jurisdiction in a criminal case is invoked by a timely filed notice of appeal. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Because Avalos-Escalon did not timely file his notice of appeal, we lack jurisdiction to dispose of this

appeal in any manner other than dismissing it for want of jurisdiction. *See Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012). Accordingly, we dismiss this appeal for want of jurisdiction.¹

Chari L. Kelly, Justice

Before Justices Goodwin, Kelly, and Smith

Dismissed for Want of Jurisdiction

Filed: June 19, 2020

Do Not Publish

¹ The remedy for a late-filed notice of appeal is to file a post-conviction writ of habeas corpus returnable to the Texas Court of Criminal Appeals for consideration of an out-of-time appeal. *See* Tex. Code Crim. Proc. art. 11.07.