TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-04-00085-CV

Mary Moran, Appellant

v.

Wal-Mart Stores, Inc., Appellee

FROM THE DISTRICT COURT OF TRAVIS COUNTY, 345TH JUDICIAL DISTRICT
NO. 98-14145, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING

M E M O R A N D U M O P I N I O N

The judgment in this case was signed October 28, 2003. A motion for new trial was timely filed; accordingly, the notice of appeal was due to be filed on or before January 26, 2004. *See* Tex. R. App. P. 26.1(a)(1). The notice of appeal was not filed until February 11, 2004, sixteen days late. No timely motion for extension of time was filed.[1] The clerk's office notified appellant of this problem and requested proof of timely mailing or an affidavit swearing that the filing was timely mailed. *See id.* 9.2(b), (c). In response, appellant stated that the filing deadline was mistakenly

[1] Because appellant filed the notice of appeal more than fifteen days late, the instrument itself cannot serve as an implied motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

calculated and the notice of appeal had not been filed until February 11, 2004.[2] Because a late-filed notice of appeal does not confer jurisdiction on this court, we must dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 2 (court may not alter time for perfecting appeal); *Verburgt*, 959 S.W.2d at 617.

W. Kenneth Law, Chief Justice

Before Chief Justice Law, Justices Patterson and Puryear

Dismissed for Want of Jurisdiction

Filed: May 6, 2004

[2] We note that the date of service (by telefacsimile) shown in the certificate of service is February 11, as well.