Fourth Court of Appeals
San Antonio, Texas

July 11, 2016

No. 04-16-00429-CV

Albert **PORTER**,
Appellant

v.

THE STATE OF TEXAS,
Appellee

From the County Court at Law No. 3, Bexar County, Texas
Trial Court No. 2015CV06349
Honorable David J. Rodriguez, Judge Presiding

O R D E R

The trial court signed a final judgment on May 19, 2016. Because appellant did not file a timely motion for new trial, motion to modify the judgment, motion for reinstatement, or request for findings of fact and conclusions of law, the notice of appeal was due to be filed on June 18, 2016. *See* TEX. R. APP. P. 26.1(a). A motion for extension of time to file the notice of appeal was due on July 3, 2016. *See* TEX. R. APP. P. 26.3. Although appellant filed a notice of appeal within the fifteen-day grace period allowed by Rule 26.3, he did not file a motion for extension of time.

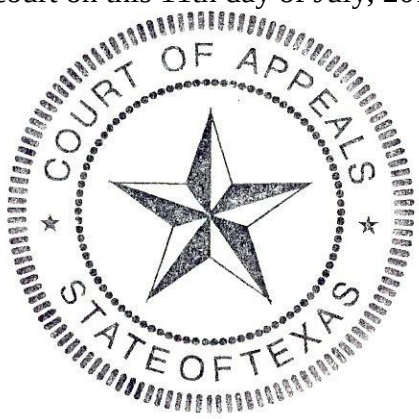
A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Texas Rule of Appellate Procedure 26.1 but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 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 id.*; TEX. R. APP. P. 26.3, 10.5(b)(1)(C).

We, therefore, ORDER appellant to file, within fifteen days from the date of this order, a response presenting a reasonable explanation for failing to file the notice of appeal in a timely manner. If appellant fails to respond within the time provided, the appeal will be dismissed. *See* TEX. R. APP. P. 42.3(c).

Karen Angelini

Karen Angelini, Justice

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 11th day of July, 2016.



Keith E. Hottle
Clerk of Court