

TEXAS COURT OF APPEALS, THIRTEENTH DISTRICT, CORPUS CHRISTI–
EDINBURG

Kody Noel Gonser a/k/a Kody Gosner v. The State of Texas

No. 13-26-00240-CR (Tex. App.—Corpus Christi–Edinburg May 14, 2026) (mem. op.) · No. 13-26-00240-CR ·
Decided May 14, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas dismissed the appeal for want of jurisdiction because the appellant’s notice of appeal was untimely. The opinion notes that the appellant may seek an out-of-time appeal through a post-conviction writ of habeas corpus filed in the Texas Court of Criminal Appeals.

CASE DETAILS

COURT	Texas Court of Appeals, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Jon West; Chief Justice Tijerina; Justice West; Justice Cron
JURISDICTION	Thirteenth Court of Appeals of Texas, Corpus Christi–Edinburg
DECIDED	May 14, 2026
DOCKET	13-26-00240-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a criminal judgment of conviction; the court dismissed the appeal for want of jurisdiction because the notice of appeal was untimely.
STANDARD OF REVIEW	The court determined its appellate jurisdiction based on the timeliness of the notice of appeal.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; not designated for publication under Tex. R. App. P. 47.2(b).
PARTIES	Kody Noel Gonser a/k/a Kody Gosner v. The State of Texas

TOPICS

- appellate jurisdiction
- final judgment rule
- appellate procedure
- criminal procedure
- post-conviction relief

PRACTICE AREAS

- criminal appellate procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over a criminal appeal when the notice of appeal was filed untimely.
2. Whether the court could provide an out-of-time appeal or otherwise address the merits despite the untimely notice.

HOLDINGS

1. A timely filed notice of appeal is required to invoke the court of appeals' jurisdiction in a criminal case; when the notice is untimely, the court lacks jurisdiction to address the merits.
2. The court of appeals could not grant or otherwise provide an out-of-time appeal through this proceeding; any such remedy must be pursued through a post-conviction writ of habeas corpus returnable to the Texas Court of Criminal Appeals.

KEY QUOTATIONS

“Absent a timely filed notice of appeal, a court of appeals does not have jurisdiction to address the merits of the appeal and can take no action other than to dismiss the appeal for want of jurisdiction.”

“The appeal hereby is dismissed for want of jurisdiction.”

FACTUAL BACKGROUND

The trial court entered a judgment of conviction on October 23, 2025. Appellant, proceeding pro se, sent correspondence to the trial court on March 25, 2026, which was construed as a notice of appeal, well outside the applicable deadline.

PROCEDURAL HISTORY

The 103rd District Court of Cameron County entered a judgment of conviction on October 23, 2025, in cause number 2025DCR0189-D. Appellant filed correspondence construed as a notice of appeal on March 25, 2026. After the court notified counsel that the appeal appeared untimely and allowed ten days to cure the defect, the defect was not cured, and the court dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Olivo v. State, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996)
- Slaton v. State, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998)
- Ex parte Garcia, 988 S.W.2d 240 (Tex. Crim. App. 1999)

OPINION

Kody Noel Gonser A/K/A Kody Gosner v. the State of Texas

PER CURIAM.

NUMBER 13-26-00240-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

KODY NOEL GONSER

A/K/A KODY GONSER, Appellant, v. THE STATE OF TEXAS, Appellee.

ON APPEAL FROM THE 103RD DISTRICT COURT

OF CAMERON COUNTY, TEXAS

MEMORANDUM OPINION

Before Chief Justice Tijerina and Justices West and Cron Memorandum Opinion by Justice West

This cause is before the Court on appellant's untimely filed pro se notice of appeal. On October 23, 2025, the trial court issued a judgment of conviction in cause number 2025DCR0189-D. On March 25, 2026, appellant, acting pro se sent the trial court correspondence which was construed as a notice of appeal. On March 30, 2026, the Clerk of the Court notified appellant's counsel that it appeared the appeal has not been timely perfected. Appellant's counsel was further notified that if the defect was not cured within ten days from the date of the notice, the appeal would be dismissed. This Court's appellate jurisdiction in a criminal case is invoked by a timely filed notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Absent a timely filed notice of appeal, a court of appeals does not have jurisdiction to address the merits of the appeal and can take no action other than to dismiss the appeal for want of jurisdiction. *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). Unless a motion for new trial is filed timely, a notice of appeal must be filed within thirty days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order. TEX. R. APP. P. 26.2(a)(1). Where a timely motion for new trial is filed, the notice of appeal must be filed within ninety days after the day sentence is imposed or suspended in open court. See *id.* R. 26.2(a)(2). The time within which to file the notice may be enlarged if, within fifteen days after the deadline for filing the notice, the party files the notice of appeal and a motion complying with Rule 10.5(b) of the Texas Rules of Appellate Procedure. See *id.* R. 26.3. Appellant's notice of appeal was untimely filed, so we lack jurisdiction over the appeal. See *Slaton*, 981 S.W.2d at 210. The Court, having examined and fully considered the documents on file and appellant's failure to timely perfect his appeal, is of the opinion that the appeal should be dismissed for want of jurisdiction. Appellant may be entitled to an out-of-time appeal by filing a post-conviction writ of habeas corpus returnable to the Texas Court of Criminal Appeals; however, the availability of that remedy is beyond the jurisdiction of this Court. See TEX. CODE CRIM. PROC. ANN. art. 11.07, § 3(a); see also *Ex parte Garcia*, 988 S.W.2d 240 (Tex. Crim. App. 1999). The appeal hereby is dismissed for want of jurisdiction. Within five days from the date of this Court's opinion, counsel is ordered to send a copy of this

opinion and this Court's Judgment to appellant.

JON WEST

Justice Do not publish. TEX. R. APP. P. 47.2(b). Delivered and filed on the 14th day of May, 2026.

3