

FOURTH COURT OF APPEALS OF TEXAS AT SAN ANTONIO

Ex Parte C.D.R.

No. 04-19-00457-CV · No. 04-19-00457-CV · Decided August 26, 2019

SUMMARY

The Fourth Court of Appeals of Texas ordered the appellant in an appeal from a Val Verde County judgment to provide a reasonable explanation for filing the notice of appeal after the deadline under Texas Rule of Appellate Procedure 26.1. The court warned that failure to respond within fifteen days would result in dismissal and suspended all other appellate deadlines.

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas August 26, 2019 No. 04-19-00457-CV EX PARTE C.D.R. From the 63rd Judicial District Court, Val Verde County, Texas Trial Court No. 33751 Honorable Enrique Fernandez, Judge Presiding ORDER The trial court signed a final judgment on May 30, 2019.

Therefore, the notice of appeal was due to be filed on July 1, 2019. See TEX. R. APP. P. 26.1. A motion for extension of time to file the notice of appeal was due on July 16, 2019. See TEX. R. APP. P. 26.3. Appellant filed two notices of appeal.

The first notice includes a certificate of service, which is dated July 1, 2019, but the notice was filed on July 2, 2019. The second notice amends the caption and includes a certificate of service, which is also dated July 1, 2019, but the notice was filed on July 3, 2019.

Although appellant filed his notices 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 Rule 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). It is therefore ORDERED that appellant file, within fifteen days from the date of this order, a response presenting a reasonable explanation for failing to file a 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). All other appellate deadlines are suspended until further order of this court.

_____ Rebeca C. Martinez, Justice IN WITNESS WHEREOF,
I have hereunto set my hand and affixed the seal of the said court on this 26th day of August, 2019. _____ Keith E. Hottle, Clerk of Court