

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

Noel and Norma Castillo v. Maria Teresa Martinez

No. 08-25-00239-CV (Tex. App.—El Paso Mar. 12, 2026) · No. 08-25-00239-CV · Decided March 12, 2026

SUMMARY

The Eighth Court of Appeals of Texas dismissed Noel and Norma Castillo’s appeal for want of jurisdiction because their notice of appeal was filed after the applicable deadline. The court held that the April 25, 2025 Rule 91a dismissal order was final and that the later September 11, 2025 order denying reinstatement was not separately appealable.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District, El Paso
WRITING FOR THE COURT	Gina M. Palafox; Soto, J.; Benavides, J. (Senior Judge), sitting by assignment
JURISDICTION	Court of Appeals of Texas, Eighth District, El Paso
DECIDED	March 12, 2026
DOCKET	08-25-00239-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants sought review of a September 11, 2025 order denying their motion to vacate a Rule 91a dismissal and reinstate the case. The court of appeals dismissed the appeal for want of jurisdiction because the notice of appeal was filed after the applicable deadline measured from the April 25, 2025 final dismissal order.
STANDARD OF REVIEW	The court reviewed its appellate jurisdiction and the timeliness of the notice of appeal de novo.
PRECEDENTIAL VALUE	published
PARTIES	Noel Castillo, Norma Castillo v. Maria Teresa Martinez

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- civil procedure
- motion for new trial

PRACTICE AREAS

- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the April 25, 2025 Rule 91a dismissal order was a final, appealable order.
2. Whether Appellants' October 6, 2025 notice of appeal was timely after they filed a motion for new trial.
3. Whether the September 11, 2025 order denying the motion to vacate and reinstate was separately appealable.
4. Whether an alleged void judgment may be challenged through an untimely direct appeal.

HOLDINGS

1. The April 25, 2025 order dismissing all of Appellants' claims was a final order, and Appellants' timely motion for new trial extended the deadline for filing a notice of appeal to 90 days after that order was signed. Because the notice of appeal was filed on October 6, 2025, it was untimely and did not invoke the court's jurisdiction.
2. An order denying a post-judgment motion to vacate a final judgment and reinstate the case is generally not separately appealable from the underlying final judgment.
3. After the deadline for a direct appeal has expired, an alleged void judgment may be challenged only through a collateral attack, not through an untimely direct appeal.

KEY QUOTATIONS

“A collateral attack, however, “is accomplished through initiating a new case under a different cause number that challenges the effect of the original judgment.”” (3)

““Although the filing of a timely post-judgment motion may extend the deadline to file a notice of appeal, an order on a motion challenging a final judgment is generally not appealable separate from the underlying judgment.”” (4)

FACTUAL BACKGROUND

Appellants sued Maria Teresa Martinez in August 2024. The trial court signed an order dismissing all of their claims under Texas Rule of Civil Procedure 91a on April 25, 2025. Appellants timely filed a motion for new trial and a motion to vacate and reinstate, but did not file their notice of appeal until October 6, 2025, more than 90 days after the April dismissal order.

PROCEDURAL HISTORY

Appellants filed suit in August 2024. The trial court dismissed all claims under Texas Rule of Civil Procedure 91a on April 25, 2025, and later denied Appellants' motion for new trial and motion to vacate and reinstate. After the trial court entered a September 11, 2025 order denying a renewed hearing-related request, Appellants filed a notice of appeal on October 6, 2025. The court of appeals concluded that the April order was final, that the timely motion for new trial extended the appellate deadline to 90 days, and that the October notice was untimely.

DISPOSITION

dismissed

CASES CITED

- Kenseth v. Dallas County, 126 S.W.3d 584, 597 (Tex. App.—Dallas 2004, pet. denied)
- In re Estate of Courvier, No. 04-07-00469-CV, 2007 WL 2935809, at *1 (Tex. App.—San Antonio Oct. 10, 2007, no pet.) (mem. op.) (per curiam)
- In re Thompson, 569 S.W.3d 169, 172 (Tex. App.—Houston [1st Dist.] 2018, no pet.)
- JD Auto Corp. v. Bell, 697 S.W.3d 441, 449 (Tex. App.—El Paso 2024, no pet.)
- Salas v. State Farm Mut. Auto. Ins. Co., 226 S.W.3d 692, 695 (Tex. App.—El Paso 2007, no pet.)
- In re Benavides, 605 S.W.3d 234, 240 (Tex. App.—San Antonio 2020, pet. denied)

OPINION

Noel and Norma Castillo v. Maria Teresa Martinez

PER CURIAM.

COURT OF APPEALS

EIGHTH DISTRICT OF TEXAS

EL PASO, TEXAS

No. 08-25-00239-CV Noel and Norma Castillo, Appellants v. Maria Teresa Martinez, Appellee On Appeal from the 448th District Court El Paso County, Texas Trial Court No. 2024DCV3787

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

Appellants, Noel and Norma Castillo, attempt to appeal from an order they identified in their notice of appeal as “the certain Second Order Denying Plaintiff’s Motion to Vacate 91a Dismissal Order and Reinstate the Case.” The order denying reinstatement and to vacate the dismissal of the case was signed on September 11, 2025. Because we conclude the appeal was not timely perfected in this Court, we dismiss the case for want of jurisdiction. In August 2024, Appellants filed suit against Appellee, Maria Teresa Martinez. The trial court signed an order granting Appellee’s motion to dismiss on April 25, 2025 (the April Order), pursuant to Texas Rule of Civil Procedure 91a. The District Clerk sent notice of the judgment to all parties the same day. Appellants filed a motion for new trial and a motion to vacate the 91a dismissal order and to reinstate the case, respectively, on May 7, 2025, and May 9, 2025. The trial court denied both motions by separate orders signed on June 5, 2025. On August 26, 2025, or four months after the April Order, the trial court issued an order setting a hearing on Appellants’ previously denied motion to reinstate. After a hearing, the trial court signed an order denying Appellants’ motion to vacate on September 11, 2025 (the September Order). Appellants filed their notice of appeal challenging that order on October 6, 2025. On October 9, 2025, the Clerk of this Court notified Appellants it appeared there was no appealable order or final judgment, thus depriving this Court of jurisdiction over the appeal. The notice warned that the case would be submitted for dismissal after ten days unless

Appellants filed a response showing why the Court had jurisdiction. Tex. R. App. P. 42.3(a). Appellants responded by arguing that the trial court signed a final, appealable order affirming its dismissal of Appellants' lawsuit and denying their motion to reinstate on September 11, 2025. After the clerk's record was filed on January 7, 2026, the Clerk of the Court next notified Appellants that it appeared that the trial court entered a final judgment on April 25, 2025, and because Appellants' notice of appeal was not filed until October 6, 2025, it appeared that the notice of appeal was untimely and the Court lacked jurisdiction over the appeal. The notice again warned 2 that the appeal would be submitted for dismissal within ten days unless Appellants filed a response showing a basis for the Court's jurisdiction. Tex. R. App. P. 42.3(a). Appellants responded, asserting that the April Order was void because Appellee's motion to dismiss, on which it was based, did not invoke Rule 91a as grounds for dismissal, and that a void judgment "cannot have any force or effect." Appellants thus maintained the April Order did not commence the appellate timetable. Instead, they contended the September Order constituted the only final, appealable order in the case, and based on the date of that order, their appeal was timely filed. We disagree. When a trial court signs a final, appealable order, an appellant must ordinarily file the notice of appeal within 30 days. Tex. R. App. P. 26.1. However, if any party timely files a motion for new trial, or other plenary-power extending motion, then the timeline is extended and the notice of appeal must be filed within 90 days of the date of the judgment. Tex. R. App. P. 26.1(a). Coupled with these timetables, Texas courts hold that a party cannot attack a void judgment in an untimely direct appeal. See *Kenseth v. Dallas County*, 126 S.W.3d 584, 597 (Tex. App.—Dallas 2004, pet. denied) (rejecting the argument that a void order can be attacked on direct appeal at any time, even with an untimely notice of appeal); *In re Estate of Courvier*, No. 04-07-00469-CV, 2007 WL 2935809, at *1 (Tex. App.—San Antonio Oct. 10, 2007, no pet.) (mem. op.) (per curiam) ("[E]ven a void judgment can become final for the purposes of appeal."). Rather, after the time to bring a direct appeal has expired, a party may only bring an attack against a void judgment through a collateral attack. *In re Thompson*, 569 S.W.3d 169, 172 (Tex. App.—Houston [1st Dist.] 2018, no pet.); see also *JD Auto Corp. v. Bell*, 697 S.W.3d 441, 449 (Tex. App.—El Paso 2024, no pet.) ("There is no set procedure nor time period for bringing a collateral attack against a void judgment."). A collateral attack, however, "is accomplished through initiating a new case under a 3 different cause number that challenges the effect of the original judgment." *In re Thompson*, 569 S.W.3d at 172. Here, Appellants did not file a collateral attack in the trial court. They instead filed a direct appeal challenging the September Order and asserted that the April Order was void and of no legal effect. Whether void or not, Appellants do not dispute that the April Order dismissed all of Appellants' claims pursuant to Rule 91a, and thus it was a final order. Following the signing of that order, Appellants acted on it by filing a timely motion for new trial, which extended the 30-day appellate timetable to 90-days, from May 26, 2025, to July 24, 2025. Tex. R. App. P. 26.1(a) (1). Appellants, however, did not file their notice of appeal until October 6, 2025, or 164 days after the April Order and outside the 90-day deadline. To the extent the notice of appeal could be read as

challenging the April Order, it failed to timely invoke this Court's jurisdiction. Tex. R. App. P. 26.1(a)(1); *Salas v. State Farm Mut. Auto. Ins. Co.*, 226 S.W.3d 692, 695 (Tex. App.—El Paso 2007, no pet.) (“Absent a timely filed notice of appeal, we must dismiss an appeal for lack of jurisdiction.”). Appellants argue, however, that the September Order is the only final, appealable order, and because their notice was filed within 30 days’ of that order, the appeal was timely. Again, we disagree. “Although the filing of a timely post-judgment motion may extend the deadline to file a notice of appeal, an order on a motion challenging a final judgment is generally not appealable separate from the underlying judgment.” *In re Benavides*, 605 S.W.3d 234, 240 (Tex. App.—San Antonio 2020, pet. denied). Rather, when a timely post-judgment motion is filed, the deadline to file a notice of appeal is determined by the date of the final judgment, not the date the motion is denied. See Tex. R. App. P. 26.1(a) (providing that when a timely post-judgment motion is filed, a notice of appeal may be filed within 90 days “after the judgment is signed”). Consequently, the September Order is not appealable as a separate order. See *In re Benavides*, 605 S.W.3d at 240. Because Appellants failed to timely perfect their appeal, we dismiss the appeal for want of jurisdiction. Tex. R. App. P. 42.3(a). GINA M. PALAFOX, Justice March 12, 2026 Before Palafox and Soto, JJ., Benavides, J. (Senior Judge) Benavides, J. (Senior Judge), sitting by assignment 5