

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

In the Interest of A.E.M., a Child

In re A.E.M. · No. 04-15-00577-CV · Decided September 24, 2015

SUMMARY

The Fourth Court of Appeals of Texas ordered the appellant in an accelerated parental-rights termination appeal to provide a reasonable explanation for filing the notice of appeal after the applicable deadline. The court suspended all other appellate deadlines and warned that failure to respond within ten days would result in dismissal.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez
JURISDICTION	Texas
DECIDED	September 24, 2015
DOCKET	04-15-00577-CV
DISPOSITION	other
PROCEDURAL POSTURE	Accelerated appeal from an order terminating Appellant's parental rights; the court issued an order requiring Appellant to explain the allegedly untimely notice of appeal.
PRECEDENTIAL VALUE	Published order addressing appellate filing requirements
PARTIES	Appellant v. A.E.M., a Child

TOPICS

[appellate procedure](#)[family law procedure](#)[termination of parental rights](#)[parental rights](#)

PRACTICE AREAS

[family law](#)[appellate procedure](#)[termination of parental rights](#)

QUESTIONS PRESENTED

1. Whether Appellant's notice of appeal was timely under Texas Rule of Appellate Procedure 26.1(b).
2. Whether Appellant could proceed with the appeal by providing a reasonable explanation for the late filing under Rules 26.3 and 10.5(b)(1)(C).

HOLDINGS

1. When a notice of appeal is filed after the deadline in Rule 26.1 but within the fifteen-day period in Rule 26.3, a motion for extension is necessarily implied; if the notice was not timely, the appellant must provide a reasonable explanation for the late filing.

KEY QUOTATIONS

“[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 period in which the appellant would be entitled to move to extend the filing deadline under Rule [26.3].”

FACTUAL BACKGROUND

The trial court entered an order terminating Appellant's parental rights. Appellant filed a notice of appeal after the ordinary deadline but within the fifteen-day period during which an extension could be requested.

PROCEDURAL HISTORY

The 438th Judicial District Court of Bexar County signed an order terminating Appellant's parental rights on August 19, 2015. Appellant filed a notice of appeal on September 15, 2015, after the September 8 deadline under Texas Rule of Appellate Procedure 26.1(b). The court ordered Appellant to file a written response within ten days explaining the late filing and suspended all other appellate deadlines pending further order.

DISPOSITION

other

CASES CITED

- *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)