

FOURTEENTH COURT OF APPEALS OF TEXAS

In the Matter of J.A.A., Jr. v. State

No. 14-20-00729-CV · No. 14-20-00729-CV · Decided November 19, 2020

SUMMARY

The Fourteenth Court of Appeals addressed an accelerated appeal from a juvenile court order waiving jurisdiction and transferring the appellant to criminal district court. Because the notice of appeal was filed within 15 days after the deadline, the court implied a motion for extension and ordered the appellant to file a proper extension motion supported by a reasonable explanation.

CASE DETAILS

COURT	Fourteenth Court of Appeals of Texas
WRITING FOR THE COURT	Per curiam; Christopher; Wise; Hassan
JURISDICTION	Texas
DECIDED	November 19, 2020
DOCKET	14-20-00729-CV
DISPOSITION	other
PROCEDURAL POSTURE	Accelerated appeal from a juvenile court order waiving jurisdiction and transferring appellant to criminal district court.
PRECEDENTIAL VALUE	Published opinion
PARTIES	J.A.A., Jr. v. State

TOPICS

[appellate procedure](#) [family law procedure](#) [standard of review](#)

PRACTICE AREAS

[appellate procedure](#) [family law](#) [juvenile law](#)

QUESTIONS PRESENTED

1. Whether a notice of appeal filed within fifteen days after the deadline permits an implied motion for extension under Texas Rule of Appellate Procedure 26.3.
2. Whether an appellant must provide a reasonable explanation supporting the late filing even when an extension motion is implied.

HOLDINGS

1. When a perfecting instrument is filed within fifteen days after its due date, a motion for extension of time is necessarily implied, even in an accelerated appeal.
2. An appellant whose late notice of appeal results in an implied extension motion must still provide a reasonable explanation supporting the late filing.

KEY QUOTATIONS

“A motion for extension of time is necessarily implied when the perfecting instrument is filed within 15 days of its due date.”

“While an extension may be implied, appellant is still obligated to come forward with a reasonable explanation to support the late filing.”

FACTUAL BACKGROUND

The juvenile court signed an order waiving jurisdiction and transferring appellant to criminal district court on October 2, 2020. Appellant filed his notice of appeal four days after the October 22 deadline, but within fifteen days of that deadline.

PROCEDURAL HISTORY

The County Court at Law No. 4 of Fort Bend County signed an order on October 2, 2020, waiving juvenile-court jurisdiction and transferring appellant to criminal district court. Appellant's notice of appeal was due October 22, 2020, but was filed October 26, 2020. The court of appeals ordered appellant to file a motion for extension of time supported by a reasonable explanation by November 30, 2020, warning that failure to comply could result in dismissal.

DISPOSITION

other

CASES CITED

- *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)
- *Hone v. Hanafin*, 104 S.W.3d 884, 885 (Tex. 2003) (per curiam)
- *Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.)

OPINION

PER CURIAM.

Order filed November 19, 2020 In The Fourteenth Court of Appeals _____ NO. 14-20-00729-CV _____ IN THE MATTER OF J.A.A., JR. On Appeal from County Court at Law No. 4 Fort Bend County, Texas Trial Court Cause No. 20-CJV-023528 ORDER This is an

accelerated appeal from an order of a juvenile court waiving jurisdiction and transferring appellant to criminal district court signed October 2, 2020.

The notice of appeal was due October 22, 2020. See Tex. Fam. Code Ann. § 56.01(h); Tex. R. App. P. 26.1(b). Appellant, however, filed his notice of appeal on October 26, 2020, a date within 15 days of the due date for the notice of appeal. A motion for extension of time is necessarily implied when the perfecting instrument is filed within 15 days of its due date.

Verburgt v. Dorner, 959 S.W.2d 615, 617 (Tex. 1997); see *Hone v. Hanafin*, 104 S.W.3d 884, 885 (Tex. 2003) (per curiam) (applying *Verburgt* to accelerated appeals). Appellant did not file a motion to extend time to file the notice of appeal. While an extension may be implied, appellant is still obligated to come forward with a reasonable explanation to support the late filing.

See *Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.). Accordingly, we ORDER appellant to file a proper motion to extend time to file the notice of appeal on or before November 30, 2020. See Tex. R. App. P. 26.3, 10.5(b). If appellant does not comply with this order, we may dismiss the appeal.

See Tex. R. App. P. 42.3. PER CURIAM Panel consists of Justices Christopher, Wise, and Hassan.

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