

**DISMISSED; Opinion Filed June 24, 2020.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-19-01585-CV**

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**ROBIN LOUISE THOMAS, Appellant**

**V.**

**DONALD ALLIE AND JACKIE MCCLINTOCK AS REPRESENTATIVES  
OF THE ESTATE OF THI PHAM, Appellees**

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**On Appeal from the 191st Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DC-18-08195**

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**MEMORANDUM OPINION**

Before Justices Schenck, Molberg, and Nowell  
Opinion by Justice Schenck

We questioned our jurisdiction over this appeal from the trial court's July 11, 2019 judgment because it appeared to have been untimely filed. As reflected in the clerk's record, a motion for new trial was timely filed, making the notice of appeal due no later than October 9, 2019 or, with an extension motion, no later than October 24, 2019. *See* TEX. R. APP. P. 26.1(a), 26.3. The notice of appeal, however, was not filed until December 27, 2019.

By letter dated January 22, 2020, we directed appellant to file, no later than February 3, 2020, a letter brief addressing our concern. We subsequently extended,

on appellant's motions, the deadline four times. Our last order directed appellant to file the letter brief no later than June 3, 2020 and cautioned the appeal was subject to dismissal without further notice if the letter brief was not filed. *See id.* 42.3(a),(c).

Rather than filing the letter brief, appellant filed her brief on the merits. As appellees note in their responsive letter brief, however, nothing in appellant's merits brief addresses our jurisdiction.

A timely notice of appeal is a prerequisite for our jurisdiction. *See Brashear v. Victoria Gardens of McKinney, L.L.C.*, 302 S.W.3d 542, 545 (Tex. App.—Dallas 2009, no pet.) (op. on reh'g). Because the notice of appeal here was filed more than two months after it was due, we lack jurisdiction and dismiss the appeal. *See* TEX. R. APP. P. 42.3(a); *Brashear*, 302 S.W.3d at 545.

/David J. Schenck/

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DAVID J. SCHENCK  
JUSTICE

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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

ROBIN LOUISE THOMAS,  
Appellant

No. 05-19-01585-CV      V.

DONALD ALLIE AND JACKIE  
MCCLINTOCK AS  
REPRESENTATIVES OF THE  
ESTATE OF THI PHAM, Appellees

On Appeal from the 191st Judicial  
District Court, Dallas County, Texas  
Trial Court Cause No. DC-18-08195.  
Opinion delivered by Justice  
Schenck, Justices Molberg and  
Nowell participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

Judgment entered this 24<sup>th</sup> day of June, 2020.