

DISMISS and Opinion Filed September 1, 2021



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

No. 05-21-00715-CV

IN THE INTEREST OF J.J.W.S., A CHILD

**On Appeal from the 303rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-01-19817**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Molberg, and Justice Goldstein
Opinion by Chief Justice Burns

Before the Court is appellant's motion for extension of time to file her notice of appeal from the trial court's April 20, 2021 final order. Under Texas Rule of Appellate Procedure 26.3, an appellate court may grant a motion for extension of time to file a notice of appeal if, in part, the notice of appeal is filed within fifteen days of the deadline prescribed by rule 26.1. *See* TEX. R. APP. P. 26.3. Because appellant timely filed a motion for new trial, the rule 26.1 deadline was July 19, 2021, ninety days after the complained-of order was signed, and the deadline under rule 26.3 was August 3, 2021. *See id.* 26.1(a), 26.3. Appellant did not file her notice of appeal, however, until August 20th.

In the extension motion, appellant acknowledges the July 19th deadline but asserts she did not receive notice of the final order until May 5th and therefore, the deadlines run from that date, not the date of the final order. Deadlines run from the date of notice, however, only if notice is received more than twenty days after the date of judgment.¹ See TEX. R. CIV. P. 306a(4); TEX. R. APP. P. 4.2(a). Because notice here was received within fifteen days, the deadlines were not altered. Accordingly, because the notice of appeal was not filed by August 3rd, we deny the extension motion and dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a); *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) (timely filing of notice of appeal is jurisdictional).

/Robert D. Burns, III/
ROBERT D. BURNS, III
CHIEF JUSTICE

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¹ In no event though, may the deadlines run more than ninety days after the original judgment or appealable order was signed. See TEX. R. CIV. P. 306a(4); TEX. R. APP. P. 4.2(a).



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

JUDGMENT

IN THE INTEREST OF J.J.W.S., A
CHILD

No. 05-21-00715-CV

On Appeal from the 303rd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DF-01-19817.
Opinion delivered by Chief Justice
Burns, Justices Molberg and
Goldstein participating.

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

Judgment entered September 1, 2021.