

Dismissed and Opinion filed January 25, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-01380-CV

HOWARD GRANT, M. D., Appellant

V.

LERION PROPERTIES, INC., Appellee

**On Appeal from the County Court at Law No. 1
Harris County, Texas
Trial Court Cause No. 724,766**

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

This is an attempted appeal from a judgment signed June 27, 2000. Appellant filed an untimely motion for new trial on August 29, 2000. Appellant's notice of appeal was filed November 3, 2000.

The notice of appeal must be filed within thirty days after the judgment is signed when appellant has not filed a timely motion for new trial, motion to modify the judgment, motion to reinstate, or a request for findings of fact and conclusions of law. *See* TEX. R. APP. P. 26.1.

Appellant's notice of appeal was not filed timely. 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 grace period provided by Rule 26.3 for filing a motion for extension of time. *Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (1997) (construing the predecessor to Rule 26). However, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. *See* TEX. R. APP. P. 26.3, 10.5(b)(1)(C); *Verburgt*, 959 S.W.2d at 617-18. Appellant's notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

Appellant requested a hearing pursuant to rule 306a of the Texas Rules of Civil Procedure claiming he did not receive notice of the trial court's judgment within 20 days of the date the judgment was signed. *See* TEX. R. CIV. P. 306a. Appellant claimed his trial counsel passed away after the judgment was signed. On November 22, 2000, this Court ordered the trial court to hold a hearing to determine when appellant or his counsel received notice of the judgment. The trial court conducted a hearing and found appellant's trial counsel received notice of the judgment on June 30, 2000, three days after the judgment was signed and before counsel passed away. Based on these findings, appellant is not entitled to the relief provided in rule 306a.

On January 3, 2001, notification was transmitted to all parties of the Court's intent to dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). Appellant filed no response.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed January 25, 2001.

Panel consists of Justices Yates, Wittig, and Frost.

Do Not Publish — TEX. R. APP. P. 47.3(b).