

Dismissed and Opinion filed March 23, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-00235-CV

SAVINO MOSCARIELLO, Appellant

V.

PAUL F. CARROLL INSURANCE AGENCY, Appellee

On Appeal from the County Civil Court at Law No. 3
Harris County, Texas
Trial Court Cause No. 703,753

OPINION

This is an attempted appeal from a summary judgment signed November 8, 1999. Appellant filed a motion for new trial December 2, 1999. Appellant's notice of appeal was not filed until February 24, 2000.

When appellant has 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, the notice of appeal must be filed within ninety days after the date the judgment is signed. *See* TEX. R. APP. P. 26.1(a).

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. *See 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.

On March 2, 2000, 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 on March 23, 2000.

Panel consists of Chief Justice Murphy, Justices Hudson and Wittig.

Do Not Publish — *See* TEX.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