

Dismissed and Opinion filed August 3, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-00829-CV

MARK ANTHONY JOHNSON, Appellant

V.

SHARON K. MEIER, Appellee

On Appeal from the 56th District Court
Galveston County, Texas
Trial Court Cause No. 99CV1116

OPINION

This is an attempted appeal from an order of dismissal, signed February 17, 2000. No motion for new trial was filed. Appellant's notice of appeal was filed July 10, 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.

On July 17, 2000, appellee filed a motion to dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). On July 26, 2000, appellant filed a response which fails to demonstrate that this Court

has jurisdiction to entertain the appeal.

Appellant asserts that he did not receive timely notice of the trial court's final judgment. He contends he did not learn of the judgment until he received a response to his request for information from the district clerk dated June 28, 2000. The applicable rules provide that if a party has not received notice or actual knowledge of a judgment within twenty days after the judgment or order was signed, then the time period for perfecting the appeal may be extended by following the procedure outlined in Texas Rule of Civil Procedure 306a.5. *See* TEX. R. APP. P. 4.2.(b). The party seeking to extend the time period is required to prove in the trial court, on sworn motion, the date he first either received notice or acquired actual knowledge of the signing of the judgment. *See* TEX. R. CIV. P. 306a.5. After hearing the party's motion, the trial court must sign a written order that finds the date when the party first either received notice or acquired actual knowledge that the judgment or order was signed. *See* TEX. R. APP. P. 4.2.(c). Appellant did not file a motion pursuant to Rule 306a.5, make the required proof, or obtain the required written order. Therefore, he has not established that he is entitled to additional time to perfect his appeal.

We grant appellee's motion. Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed August 3, 2000.

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

Do Not Publish — TEX.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