

Dismissed and Opinion filed August 16, 2001.



In The

Fourteenth Court of Appeals

NO. 14-01-00604 -CV

RICHARD B. HARRIS, D.D.S., Appellant

V.

GLOCK, INC., GLOCK GES.M.b.H, and ALEXANDER GUNS, INC., Appellees

**On Appeal from the 11th District Court
Harris County, Texas
Trial Court Cause No. 95-23930**

MEMORANDUM OPINION

This is an attempted appeal from a summary judgment signed February 12, 2001. Appellant filed a timely motion for new trial on March 14, 2001, Appellant's notice of appeal was not filed until May 31, 2001.

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 due May 14, 2001, but it was not filed until May 31, 2001. 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). The appellant must offer a reasonable explanation, however, for failing to file the notice of appeal in a timely manner. *See* TEX. R. APP. P. 26.3, 10.5(b)(1)(C); *Miller v. Greenpark Surgery Center Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.). Appellant's notice of appeal was not filed within the fifteen-day period provided by rule 26.3.

On July 10, 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's response fails to demonstrate that this court has jurisdiction to entertain the appeal.

On August 1, 2001, appellees filed a motion to dismiss the appeal for want of jurisdiction because the notice of appeal was not timely filed. The motion is granted. *See* TEX. R. APP. P. 42.3(a).

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed August 16, 2001.

Panel consists of Chief Justice Brister, Justices Fowler and Seymore.

Do Not Publish — TEX.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