

Dismissed and Opinion filed August 10, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-00859-CR

TERRENCE RAYMON SPELLMON, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 176th District Court
Harris County, Texas
Trial Court Cause No. 839,319

OPINION

After a guilty plea, appellant was convicted of the offense of robbery and sentenced to nine years in prison on April 12, 2000. An untimely motion for new trial was filed on July 5, 2000. Appellant's notice of appeal was not filed until July 5, 2000.

A defendant may file a motion for new trial within thirty days after sentencing. TEX. R. APP. P. 31(a). An untimely motion for new trial is a nullity. *See Kiser v. State*, 788 S.W.2d 909, 914 (Tex. App.—Dallas 1990, pet. ref'd). A defendant's notice of appeal must be filed within thirty days after sentence is imposed when the defendant has not filed a timely motion for new trial. *See* TEX. R. APP. P. 26.2(a)(1). A notice of appeal which complies with the

requirements of Rule 26 is essential to vest the court of appeals with jurisdiction. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). If an appeal is not timely perfected, a court of appeals does not obtain jurisdiction to address the merits of the appeal. Under those circumstances it can take no action other than to dismiss the appeal. *See id.*

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed August 10, 2000.

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

Do Not Publish - TEX.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