

FOURTH COURT OF APPEALS OF TEXAS

In the Interest of J.O.H., R.F.B., H.R., J.J.R., and M.L.D.L., Children

No. 04-20-00135-CV · No. 04-20-00135-CV · Decided April 29, 2020

SUMMARY

The Fourth Court of Appeals of San Antonio dismissed the appeal for want of jurisdiction because the trial court's order was interlocutory and not a final, appealable order. The court noted that the appellant did not respond to its order to show cause concerning dismissal.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas
WRITING FOR THE COURT	Per Curiam; Patricia O. Alvarez, Justice; Luz Elena D. Chapa, Justice; Irene Rios, Justice
JURISDICTION	Texas
DECIDED	April 29, 2020
DOCKET	04-20-00135-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed from an interlocutory order concerning termination of parental rights. The court of appeals dismissed the appeal for want of jurisdiction.
STANDARD OF REVIEW	The court determined its appellate jurisdiction by examining whether the trial court's order was final and appealable.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status is not stated in the opinion text.
PARTIES	Appellant Mom 1

TOPICS

- termination of parental rights
- appellate jurisdiction
- interlocutory appeal
- final judgment rule
- family law procedure

PRACTICE AREAS

- family law
- appellate procedure
- termination of parental rights

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal from the interlocutory order.
2. Whether the interlocutory order was a final, appealable order under Texas law.

HOLDINGS

1. The court of appeals lacked jurisdiction because the trial court's order was interlocutory rather than final and appealable.

KEY QUOTATIONS

“Because the trial court’s February 27, 2020 order is not a final, appealable order, we dismiss this appeal for want of jurisdiction.” (-2)

“Generally, “an appeal may be taken only from a final judgment. A judgment is final for purposes of appeal if it disposes of all pending parties and claims in the record, except as necessary to carry out the decree.”” (at 2)

FACTUAL BACKGROUND

The trial court entered an interlocutory order involving termination of Appellant's parental rights to her children. Appellant filed a notice of appeal before entry of a final order. After the court of appeals notified her that the order was not final and appealable and ordered her to show cause, she filed no response.

PROCEDURAL HISTORY

The trial court signed an interlocutory order on February 27, 2020, and Appellant filed a notice of appeal on March 3, 2020. The court of appeals ordered Appellant to show cause why the appeal should not be dismissed because the order was not final and appealable. Appellant filed no response, and the court dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- In re D.M.B., 467 S.W.3d 100, 102 (Tex. App.—San Antonio 2015, pet. denied)
- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 195 (Tex. 2001)
- In re C.M., No. 01-15-00830-CV, 2016 WL 1054589, at *5 (Tex. App.—Houston [1st Dist.] Mar. 17, 2016, no pet.) (mem. op.)

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas MEMORANDUM OPINION No. 04-20-00135-CV IN THE INTEREST OF J.O.H., R.F.B., H.R., J.J.R., and M.L.D.L., Children From the 131st Judicial District Court, Bexar County, Texas Trial Court No. 2019-PA-00260 Honorable Charles E. Montemayor, Judge Presiding PER CURIAM Sitting: Patricia O. Alvarez, Justice Luz Elena D. Chapa, Justice Irene Rios, Justice Delivered and Filed: April 29, 2020 DISMISSED FOR WANT OF JURISDICTION On February 27, 2020, the trial court signed an interlocutory order terminating Appellant's rights to her children.

On March 3, 2020, Appellant Mom 1 filed a notice of appeal. The Texas Family Code authorizes appeal of a final order terminating a parent's rights to their child in accordance with "the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure." TEX. FAM. CODE ANN. § 263.405(a); accord *In re D.M.B.*, 467 S.W.3d 100, 102 (Tex.

App.—San Antonio 2015, pet. denied). Generally, "an appeal may be taken only from a final judgment. A judgment is final for purposes of appeal if it disposes of all pending parties and claims in the record, except as necessary to carry out the decree." *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). 1 We use aliases for Appellant and the children.

See TEX. FAM. CODE ANN. § 109.002(d); TEX. R. APP. P. 9.8(b). 04-20-00135-CV On March 19, 2020, we advised Appellant that "[t]here is no provision for interlocutory appeal of an order denying a termination petition; we do not have jurisdiction over such interlocutory orders." *In re C.M.*, No. 01-15-00830-CV, 2016 WL 1054589, at *5 (Tex. App.—Houston [1st Dist.]

Mar. 17, 2016, no pet.) (mem. op.) (citing TEX. CIV. PRAC. & REM. CODE ANN. § 51.014). We ordered Appellant to show cause in writing by March 30, 2020, why this appeal should not be dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

We warned Appellant that if she did not timely file written proof as ordered, this appeal would be dismissed without further notice. See *id.* To date, Appellant has not filed any response to our March 19, 2020 order.

Because the trial court's February 27, 2020 order is not a final, appealable order, we dismiss this appeal for want of jurisdiction. PER CURIAM -2-