

COURT OF APPEALS FOR THE SECOND DISTRICT OF TEXAS, FORT WORTH

In the Interest of K.N.H. and L.M.H., Children

No. 2-07-420-CV · No. No. 2-07-420-CV · Decided February 28, 2008

SUMMARY

The Court of Appeals for the Second District of Texas dismissed Bryan Walter’s appeal for want of jurisdiction. The trial court’s order modifying parent-child relationships did not dispose of Walter’s intervention claim for attorney’s fees and was not an appealable final judgment or interlocutory order.

CASE DETAILS

COURT	Court of Appeals for the Second District of Texas, Fort Worth
WRITING FOR THE COURT	Per Curiam; Gardner, J.; Walker, J.; McCoy, J.
JURISDICTION	Texas
DECIDED	February 28, 2008
DOCKET	No. 2-07-420-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Bryan Walter attempted to appeal from an order modifying parent-child relationships. Because the order did not dispose of his petition in intervention and was not otherwise an appealable interlocutory order, the court questioned its appellate jurisdiction and dismissed the appeal after receiving no response.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status not otherwise stated in the opinion text.
PARTIES	Bryan Walter

TOPICS

- appellate jurisdiction
- final judgment rule
- interlocutory appeal
- appellate procedure
- family law procedure

PRACTICE AREAS

- Family law
- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

1. Whether the October 17, 2007 order was a final, appealable judgment as to Walter's intervention claim.
2. Whether the order fell within the statutory list of appealable interlocutory orders.

HOLDINGS

1. The order was not a final, appealable judgment as to Walter because it did not dispose of his petition in intervention, did not name him or otherwise explicitly dispose of his claim, and therefore did not confer appellate jurisdiction over his appeal.
2. The order was not appealable as an interlocutory order because it did not fall within the statutory list of appealable interlocutory orders.

FACTUAL BACKGROUND

Bryan Walter was the former attorney of one of the parents involved in the underlying suit concerning the children. He intervened to recover attorney's fees from his former client. The trial court entered an order modifying parent-child relationships without naming Walter or expressly disposing of his intervention petition.

PROCEDURAL HISTORY

Walter, the former attorney of one of the parents, intervened in the underlying suit to recover attorney's fees from his former client. The 231st District Court of Tarrant County entered an October 17, 2007 order modifying parent-child relationships, but the order did not expressly dispose of Walter's intervention claim. The court of appeals notified Walter that it appeared to lack jurisdiction and, after no response was filed, dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Welch v. Hrabar, 110 S.W.3d 601, 603, 607-08 (Tex. App.—Houston [14th Dist.] 2003, pet. denied)
- City of Austin v. Castillo, 25 S.W.3d 309, 314-15 (Tex. App.—Austin 2000, pet. denied)

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 2-07-420-CV IN THE INTEREST OF K.N.H. AND L.M.H., CHILDREN FROM THE 231ST DISTRICT COURT OF TARRANT COUNTY MEMORANDUM OPINION[1] Appellant Bryan Walter attempts to appeal from the trial court=s October 17, 2007 order modifying parent-child relationships. Appellant is the former attorney of one of the parents involved in the underlying suit, in which Appellant intervened to recover attorney=s fees from his former client.

The trial court's October 17, 2007 order does not dispose of Appellant's petition in intervention and, therefore, is not a final, appealable judgment as to his claim. The order does not name Appellant in its caption or elsewhere, and it does not explicitly dispose of his claim. See Tex. R. Civ. P. 306; *Welch v. Hrabar*, 110 S.W.3d 601, 603, 607-08 (Tex. App. CHouston [14th Dist.]

2003, pet. denied); *City of Austin v. Castillo*, 25 S.W.3d 309, 314-15 (Tex. App. CAustin 2000, pet. denied). Nor does the order fall within the statutory list of appealable interlocutory orders. See Tex. Civ. Prac. & Rem. Code Ann. ' 51.014 (Vernon Supp. 2007).

On December 13, 2007, we notified Appellant of our concern that we lack jurisdiction over this appeal and stated that we would dismiss the appeal unless Appellant or any party desiring to continue the appeal filed on or before December 27 a response showing grounds for continuing the appeal. See Tex. R. App. P. 42.3.

We received no response. Accordingly, because the trial court's October 17, 2007 order is not a final, appealable judgment as to Appellant's claims, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f). PER CURIAM PANEL D: GARDNER, WALKER, and MCCOY, JJ. DELIVERED: February 28, 2008 [1]See Tex. R. App. P. 47.4.