

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Interest of A.M.E.

No. 04-14-00036-CV (Tex. App.—San Antonio Apr. 2, 2014) · No. No. 04-14-00036-CV · Decided April 2, 2014

SUMMARY

The Texas Fourth Court of Appeals dismissed an appeal from a final judgment in a child-protection matter. The court held that the notice of restricted appeal was untimely and, although filed within the grace period, the appellant failed to provide the required reasonable explanation for the delay.

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas MEMORANDUM OPINION No. 04-14-00036-CV IN THE INTEREST OF A.M.E. From the 224th Judicial District Court, Bexar County, Texas Trial Court No. 2009-PA-00043 Honorable Barbara Hanson Nellermeoe, Judge Presiding PER CURIAM Sitting: Karen Angelini, Justice Sandee Bryan Marion, Justice Marialyn Barnard, Justice Delivered and Filed: April 2, 2014 DISMISSED The trial court signed a final judgment on July 10, 2013.

On January 14, 2014, appellant filed a notice of restricted appeal. A notice of restricted appeal must be filed within six months after the judgment is signed. See TEX. R. APP. P. 26.1(c). Therefore, the notice of appeal was due to be filed on January 10, 2014, four days before appellant filed his notice of appeal. A motion for extension of time to file the notice of appeal was due on January 27, 2014.

See TEX. R. APP. P. 26.3. Although appellant filed a notice of appeal within the fifteen-day grace period allowed by Rule 26.3, he did not file a motion for extension of time. 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 Texas Rule of Appellate Procedure 26.1 but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of 04-14-00036-CV time.

See *Verburt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997) (construing the predecessor to Rule 26). However, the appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. See *id.*; TEX. R. APP. P. 26.3, 10.5(b)(1)(C).

Therefore, on February 24, 2014, we ordered appellant to file, within fifteen days, a response presenting a reasonable explanation for failing to file the notice of appeal in a timely manner. We

explained that if appellant failed to respond within the time provided, the appeal would be dismissed. See TEX. R. APP. P. 42.3(c). Appellant failed to respond.

We therefore dismiss this appeal. PER CURIAM -2-