

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Regina Cyphers v. Children's Alliance of South Texas, Lorelei Iris Voronin, Christina Martinez and Alexandra Torres

No. 04-21-00225-CV (Tex. App.—San Antonio Aug. 11, 2021) · No. No. 04-21-00225-CV · Decided August 11, 2021

SUMMARY

The Fourth Court of Appeals of Texas dismissed Regina Cyphers’s appeal for want of jurisdiction. The trial court’s TCPA dismissal order was interlocutory because it expressly reserved determination of mandatory court costs, attorney’s fees, and expenses, and the appellant did not respond to the appellate court’s show-cause order.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez; Luz Elena D. Chapa; Irene Rios
JURISDICTION	Texas
DECIDED	August 11, 2021
DOCKET	No. 04-21-00225-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant attempted to appeal an order granting appellees' motion to dismiss under the Texas Citizens Participation Act, but the court determined that the order was interlocutory because attorney's fees and costs had not yet been determined.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and whether the order constituted a final, appealable judgment.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status is not stated in the opinion text.
PARTIES	Regina Cyphers v. Children's Alliance of South Texas, Lorelei Iris Voronin, Christina Martinez, Alexandra Torres

TOPICS

[appellate jurisdiction](#)[final judgment rule](#)[interlocutory appeal](#)[appellate procedure](#)[defamation](#)

PRACTICE AREAS

civil procedure

appellate procedure

defamation

QUESTIONS PRESENTED

1. Whether the trial court's TCPA dismissal order was a final, appealable judgment when the court had not yet determined mandatory costs and reasonable attorney's fees and expenses.
2. Whether the appeal should be dismissed for want of appellate jurisdiction.

HOLDINGS

1. An order granting a TCPA motion to dismiss is not a final, appealable judgment when the order expressly leaves the determination and award of mandatory costs and reasonable attorney's fees and expenses unresolved.
2. The court dismissed the appeal for want of jurisdiction because the notice of appeal challenged an interlocutory order rather than a final, appealable judgment.

KEY QUOTATIONS

“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.””
(opinion at 1)

“The trial court’s May 11, 2021 order did not dispose of all parties and claims.” (opinion at 2)

“We dismiss this appeal for want of jurisdiction.” (opinion at 2)

FACTUAL BACKGROUND

On January 25, 2021, Regina Cyphers sued Children’s Alliance of South Texas and the other appellees for, among other claims, defamation. On May 11, 2021, the trial court granted the defendants’ motion to dismiss under the TCPA but expressly reserved determination of court costs and reasonable attorney’s fees and expenses. Cyphers filed a notice of appeal on June 2, 2021, but did not respond to the appellate court’s order to show cause why the appeal should not be dismissed.

PROCEDURAL HISTORY

Cyphers sued the appellees, including for defamation. The trial court granted appellees' TCPA motion to dismiss on May 11, 2021, while reserving determination of mandatory costs and reasonable attorney's fees and expenses for a future hearing. Cyphers filed a notice of appeal, and after she failed to respond to the appellate court's show-cause order, the court dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001)
- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 200 (Tex. 2001)
- *Leniek v. Evolution Well Servs., LLC*, No. 14-18-00954-CV, 2019 WL 438825, at *2 (Tex. App.—Houston [14th Dist.] Apr. 2, 2019, no pet.) (mem. op.)

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