

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Ivery Clark Williams v. Judge Ted Akin and Samuel J. Polak

No. 05-23-00076-CV (Tex. App.—Dallas Mar. 21, 2023) · No. No. 05-23-00076-CV · Decided March 21, 2023

SUMMARY

The Fifth District Court of Appeals at Dallas dismissed the appeal for want of jurisdiction because the trial court had not rendered a final judgment or an appealable interlocutory order. Although the trial court dismissed claims against Samuel J. Polak, claims against Judge Ted Akin remained pending, and the record did not establish that the requirements for a final, appealable judgment were satisfied.

OPINION

PER CURIAM.

DISMISS and Opinion Filed March 21, 2023 S In The Court of Appeals Fifth District of Texas at Dallas No. 05-23-00076-CV IVERY CLARK WILLIAMS, Appellant V. JUDGE TED AKIN AND SAMUEL J. POLAK, Appellees On Appeal from the County Court at Law No. 4 Dallas County, Texas Trial Court Cause No. CC-22-06220-D MEMORANDUM OPINION Before Justices Reichel, Nowell, and Garcia Opinion by Justice Nowell We questioned our jurisdiction over this appeal because there did not appear to be either a final judgment or an appealable interlocutory order.

We directed appellant to file a letter brief addressing the jurisdictional issue with an opportunity for appellees to file a response. Generally, this Court has jurisdiction over final judgments and certain interlocutory orders as permitted by statute. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); see also TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a) (listing appealable interlocutory orders).

A final judgment is one that disposes of all parties and claims. See *Lehmann*, 39 S.W.3d at 195. Appellant filed a lawsuit against appellees Samuel Polak and Judge Ted Akin. Polak filed a motion to dismiss and the trial court granted it by order signed on December 19, 2022. Appellant's claims against Judge Akin remain pending.

As noted in appellee Samuel Polak's letter brief, the record does not reflect that Judge Akin has been served. See *Youngstown Sheet & Tube Co. v. Penn*, 363 S.W.2d 230, 232 (Tex. 1962) (holding judgment that disposed of all claims against all defendants except one which was never served was final and appealable where there was nothing to indicate that petitioner ever expected to obtain service upon that defendant).

Nothing in the record before this Court reflects that appellant does not intend to serve Judge Akin. In his letter brief, appellant demonstrates his intent to pursue his claims against both appellees. He fails, however, to explain how this Court has jurisdiction over the appeal.

Because a final judgment has not been rendered, we dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a). /Erin A. Nowell/ ERIN A. NOWELL JUSTICE 230076F.P05 -2- S Court of Appeals Fifth District of Texas at Dallas JUDGMENT IVERY CLARK WILLIAMS, On Appeal from the County Court at Appellant Law No. 4, Dallas County, Texas Trial Court Cause No. CC-22-06220- No. 05-23-00076-CV V. D. Opinion delivered by Justice Nowell.

JUDGE TED AKIN AND SAMUEL Justices Reichek and Garcia J. POLAK, Appellees participating. In accordance with this Court's opinion of this date, the appeal is DISMISSED. Judgment entered March 21, 2023 -3-