

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

In the Interest of R.S.T., a Child

No. 14-12-00014-CV (Tex. App.—Houston [14th Dist.] July 10, 2012) · No. No. 14-12-00014-CV · Decided July 10, 2012

SUMMARY

The Fourteenth Court of Appeals of Texas dismissed the mother's appeal for lack of jurisdiction because she filed her notice of appeal after the deadline for an accelerated appeal. The court held that the case qualified as an accelerated appeal under Texas Family Code section 263.405 because the Department of Family and Protective Services initiated the suit and remained a party while the child was under Department care.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	William J. Boyce; Justice Christopher; Justice Jamison
JURISDICTION	Texas
DECIDED	July 10, 2012
DOCKET	No. 14-12-00014-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Mother appealed a final decree in a suit affecting the parent-child relationship. The Department argued that the appeal was accelerated and that Mother's notice of appeal was untimely.
STANDARD OF REVIEW	The court treated timeliness of the notice of appeal as a jurisdictional issue.
PRECEDENTIAL VALUE	precedential
PARTIES	Mother v. Texas Department of Family and Protective Services

TOPICS

[appellate jurisdiction](#)[appellate procedure](#)[family law procedure](#)[termination of parental rights](#)[child custody](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appeal was an accelerated appeal under Texas Family Code section 263.405(a) despite the Department's alleged abandonment of its termination and conservatorship requests and its dismissal as a party in the final decree.
2. Whether Mother's notice of appeal was timely when filed more than twenty days after the final decree was signed and after the trial court denied her motion for new trial.

HOLDINGS

1. The appeal was accelerated because the Department initiated the suit under the applicable Family Code subchapter, was temporary managing conservator while the case proceeded to trial, and remained a party until the final decree was signed; the Department's alleged abandonment of claims or objection to its participation did not change the character of the final order.
2. Mother's notice of appeal was untimely because it was not filed within twenty days after the final order was signed, and her motion for new trial did not extend the deadline for perfecting an accelerated appeal.

KEY QUOTATIONS

"A complaint that the Department should have been dismissed from the case acknowledges the fact that the Department was not dismissed and, therefore, remained a party until the trial court signed the final decree." (at 5)

"Mother failed to file a timely notice of appeal. Accordingly, we lack jurisdiction and dismiss the appeal." (at 6)

FACTUAL BACKGROUND

The Department initiated a suit affecting the parent-child relationship seeking conservatorship and termination of both parents' parental rights, and the trial court appointed the Department temporary managing conservator. After a jury trial, the trial court signed a decree appointing Father sole managing conservator, removing Mother as managing conservator, appointing Mother possessory conservator, and dismissing the Department as a party. The decree warned that an appeal was accelerated and that the notice of appeal had to be filed within twenty days.

PROCEDURAL HISTORY

The Department initiated a suit seeking conservatorship and termination of the parent-child relationship. After a jury trial, the 309th District Court of Harris County appointed Father sole managing conservator, appointed Mother possessory conservator, and dismissed the Department as a party in the final decree. Mother filed a motion for new trial and later filed her notice of appeal more than twenty days after the decree was signed. The Fourteenth Court of Appeals dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- In re A.J.K., 116 S.W.3d 165 (Tex. App.—Houston [14th Dist.] 2003, no pet.)
- In re G.J.P., 314 S.W.3d 217 (Tex. App.—Texarkana 2010, pet. denied)

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