

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Interest of B.L.B., et al.

No. 04-15-00485-CV · No. 04-15-00485-CV · Decided September 30, 2015

SUMMARY

The Texas Fourth Court of Appeals dismissed an appeal from an order terminating parental rights for want of jurisdiction. The appellant filed the notice of appeal after the deadline for an accelerated appeal and after the expiration of the applicable extension period.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Per Curiam; Rebeca C. Martinez; Patricia O. Alvarez; Luz Elena D. Chapa
JURISDICTION	Texas
DECIDED	September 30, 2015
DOCKET	04-15-00485-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant sought an accelerated appeal from a final order terminating his parental rights. The court dismissed the appeal for want of jurisdiction because the notice of appeal and motion for extension were filed after the applicable deadlines.
STANDARD OF REVIEW	Jurisdictional deadlines for perfecting an accelerated appeal are applied strictly; failure to timely file the notice of appeal or a motion for extension deprives the appellate court of jurisdiction.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is not otherwise stated in the opinion text.
PARTIES	Terrell Lynn Bush v. B.L.B., et al.

TOPICS

- termination of parental rights
- appellate jurisdiction
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an accelerated appeal when the notice of appeal was filed after the deadline and after expiration of the period for seeking an extension.
2. Whether appellant's lack of knowledge that the appeal was accelerated excused the untimely notice of appeal.

HOLDINGS

1. A notice of appeal from a final order terminating parental rights must be filed within twenty days after the judgment is signed, and a motion for extension must be filed within the additional fifteen-day grace period. Once that period expires, an untimely notice of appeal does not invoke the appellate court's jurisdiction.
2. Appellant's assertion that he did not know the appeal was accelerated did not cure the jurisdictional defect caused by his untimely notice of appeal.

KEY QUOTATIONS

“The fact that appellant’s notice of appeal was filed late and after expiration of the period for requesting an extension deprives this court of jurisdiction in this matter.” (2)

FACTUAL BACKGROUND

The trial court signed a final order terminating Terrell Lynn Bush's parental rights on May 13, 2015. Bush did not file his notice of appeal until July 31, 2015, after both the twenty-day deadline for an accelerated appeal and the fifteen-day grace period for seeking an extension had expired. He explained that he did not know the appeal was accelerated.

PROCEDURAL HISTORY

The 81st Judicial District Court of Wilson County entered a final order terminating Terrell Lynn Bush's parental rights on May 13, 2015. Because the appeal was accelerated, the notice of appeal was due June 2, 2015, and any motion for extension was due June 17, 2015. Bush filed his notice of appeal on July 31, 2015. After the appellate court ordered him to show cause why the appeal should not be dismissed, he responded that he did not know the appeal was accelerated. The court dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Verburgt v. Dorner, 959 S.W.2d 615, 617 (Tex. 1997)

OPINION

in the Interest of B.L.B.

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas

MEMORANDUM OPINION

No. 04-15-00485-CV IN THE INTEREST OF B.L.B., et al. From the 81st Judicial District Court, Wilson County, Texas Trial Court No. 14-02-0060-CVW Honorable Melissa Uram-Degerolami, Judge Presiding

PER CURIAM

Sitting: Rebeca C. Martinez, Justice Patricia O. Alvarez, Justice Luz Elena D. Chapa, Justice
Delivered and Filed: September 30, 2015

DISMISSED FOR WANT OF JURISDICTION

Appellant Terrell Lynn Bush seeks to appeal from a final order terminating his parental rights. An appeal from such an order is accelerated. See TEX. FAM. CODE ANN. § 263.405. The trial court entered the final order of termination on May 13, 2015. Because this is an accelerated appeal, the notice of appeal was due on June 2, 2015. See TEX. R. APP. P. 26.1(b) (requiring notice of appeal to be filed within twenty days after the judgment is signed in an accelerated appeal; filing of a motion for new trial does not extend the appellate deadline). A motion for extension of time to file the notice of appeal was therefore due on June 17, 2015. See TEX. R. APP. P. 26.3 (providing a fifteen-day grace period after the deadline for filing notice of appeal). Appellant filed his notice of appeal on July 31, 2015, well after the deadlines for filing the notice of appeal and motion for extension of time to file the notice of appeal had expired. See *id.* Once the period for granting a 04-15-00485-CV motion for extension of time under Rule 26.3 has passed, a party can no longer invoke the appellate court's jurisdiction. *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). On August 20, 2015, this court ordered appellant to show cause in writing within thirty days why this appeal should not be dismissed for want of jurisdiction. Appellant responded by letter stating that he did not know the appeal was accelerated. The fact that appellant's notice of appeal was filed late and after expiration of the period for requesting an extension deprives this court of jurisdiction in this matter. *Id.* Accordingly, the appeal must be dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

PER CURIAM

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