

Review of Recent Juvenile Cases (2009)

by
The Honorable Pat Garza
Associate Judge
386th District Court
San Antonio, Texas

In a juvenile case, absent a timely motion for new trial, a notice of appeal must have been filed within thirty days of the date the trial court's judgment was signed. [In the Matter of M.R.H.](09-4-6)

On October 2, 2009, the Dallas Court of Appeals held found that the judgment about which appellant appears to complain was rendered in 2001, and was therefore untimely raised in 2009.

¶ 09-4-6. **In the Matter of M.R.H.**, MEMORANDUM, No. 05-09-00725-CV, __S.W.3d__, 2009 WL 3153167 (Tex.App.-Dallas, 10/2/09).

Facts: On June 19, 2009, appellant M.R.H., who is now an adult, filed a notice of appeal "under 56.01 Texas Family Code from order under Section 54.11(1)(2)." The cited provisions relate to proceedings under the Texas Family Code by which a **juvenile** who is adjudicated delinquent and committed to the Texas Youth Commission is transferred to the Texas Department of Criminal Justice. *See generally* [Tex. Fam. Code Ann. § 54.11](#) ("Release or Transfer Hearing"); § 56.01 ("Right to Appeal") (Vernon 2008). Because the record reflects that any proceedings related to appellant's transfer or release from the Texas Youth Commission occurred in 2001, we directed the parties to file letter briefs addressing our jurisdiction over the appeal. We specifically questioned whether there were any appealable orders issued from which the June 19, 2009 appeal was brought.

Held: Dismissed

Memorandum Opinion: Appellant filed a letter brief in which he asserts this Court has jurisdiction because he cannot obtain relief by post-conviction writ of habeas corpus under [article 11.07 of the code of criminal procedure](#). Appellant also contends the relevant sections of the family code do not place a time limit on appealing the order at issue in this appeal. The State responded that a search of the record shows no new orders were issued from which the June 19, 2009 appeal could be brought. The State asserts, therefore, that this Court does not have jurisdiction over the appeal. We agree with the State.

[Section 56.01\(b\) of the family code](#) states "[t]he requirements governing an appeal are as in civil cases generally." [Tex. Fam. Code Ann. § 56.01\(b\)](#). To properly invoke this Court's jurisdiction, an appellant must timely file a notice of appeal. *See* [Tex.R.App. P. 25.1](#). Absent a timely motion for new trial, a notice of appeal must have been filed within thirty days of the date the trial court's judgment was signed. *See* [Tex.R.App. P. 26.1](#).

Conclusion: In this case, the judgment about which appellant appears to complain was rendered in 2001 and the record does not reflect any other appealable orders since that date. Appellant's June 19, 2009 notice of appeal is untimely as to any 2001 judgment.

Accordingly, we conclude we lack jurisdiction over the appeal. *See generally* [Verburgt v. Dorner, 959 S.W.2d 615 \(Tex.1997\)](#). We dismiss the appeal.