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## YEAR 2005 CASE SUMMARIES

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By  
**The Honorable Pat Garza**

Associate Judge  
386th District Court  
San Antonio, Texas

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### **An appeal from an order of a juvenile court is to a court of appeals, and the requirements governing an appeal are as in civil cases generally. [In the Matter of R.G.](05-4-8)**

**On August 31, 2005, the El Paso Court of Appeals held that, in juvenile cases, a notice of appeal must be filed within 30 days after the disposition is signed unless a party timely files a motion for new trial, motion to modify the judgment, a motion to reinstate under *Tex. R. Civ. P. 165a*, or a request for findings of fact and conclusions of law.**

05-4-8. **In the Matter of R.G.**, MEMORANDUM, No. 08-05-00261-CV, 2005 Tex.App.Lexis 7175 (Tex.App.— El Paso, 8/31/05).

**Facts:** Appellant, a juvenile, sought review of an adjudication and/or disposition order. The court advised appellant that the notice of appeal had not been timely filed and the appeal was subject to dismissal unless appellant could show grounds for continuing the appeal. Appellant did not respond to the court's inquiry. The court held that it lacked jurisdiction because the notice of appeal was untimely under *Tex. R. App. P. 26.1* and *Tex. Fam. Code Ann. § 56.01(b)* (2002).

**Held:** The court dismissed the appeal.

**Opinion:** In juvenile cases, an appeal may be taken from an adjudication order, disposition order, or modification order. *See TEX.FAM.CODE ANN. § 56.01(c)*(Vernon 2002). An appeal from an order of a juvenile court is to a court of appeals, and the requirements governing an appeal are as in civil cases generally. *TEX.FAM.CODE ANN. § 56.01(a), (b)*. In civil cases, the notice of appeal must be filed within thirty days after the judgment is signed unless a party timely files a motion for new trial, motion to modify the judgment, a motion to reinstate under *Rule 165a*, or a request for findings of fact and conclusions of law. *TEX.R.APP.P. 26.1*. In that case, the notice of appeal is due to be filed within ninety days after the judgment is signed. *Id.* While the Family Code excepts adjudication orders from *Rule 26.1*'s requirement that the notice of appeal be filed within thirty days, the same exception does not apply to disposition orders. *See TEX.FAM.CODE ANN. § 56.01(b)*. Further, a motion for new trial seeking to vacate an adjudication must be filed no later than the thirtieth day after the disposition order is entered. *See TEX.FAM.CODE ANN. § 56.01(b)*. It follows that a notice of appeal from an adjudication order must also be filed within this time frame.

According to the notice of appeal, the trial court entered the order sought to be appealed on February 22, 2005. On July 25, 2005, the Court advised R.G. that the notice of appeal had not been timely filed and the appeal was subject to dismissal unless R.G. could show grounds for continuing the appeal. R.G. has not responded to the Court's inquiry.

**Conclusion:** The appeal is dismissed for want of jurisdiction.

LAST MODIFIED: SEPTEMBER 18, 2005 03:30 PM

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