

Dismissed and Opinion filed November 16, 2000.



In The

Fourteenth Court of Appeals

NO. 14-00-01136-CV

JEFFREY BALAWAJDER, Appellant

V.

**RICHARD G. BELANGER, G. J. GOMEZ, ROBERT A. STAUBER, BRADLEY
BACHMANN, AND RICHARD LOSSOW Appellees**

**On Appeal from the 12th District Court
Walker County, Texas
Trial Court Cause No. 17,542**

O P I N I O N

This is an attempted second appeal from an order of dismissal, signed August 11, 1998. The trial court granted appellees' motion to dismiss during an evidentiary hearing and appellant filed a motion to reinstate, which the trial court denied, without a hearing, on August 10, 1998. Appellant timely filed his notice of appeal and a panel of this court issued an opinion on October 14, 1999, finding the trial court had abused its discretion in denying appellant's motion to reinstate without a hearing. Based on this finding, this court reversed the trial court's judgment and remanded the cause to the trial court for further proceedings.

The trial court's docket sheet indicates the trial judge held a hearing and again denied appellant's motion to reinstate the case. Appellant attempts to continue his appeal from the trial court's August 11, 1998, order of dismissal. No new notice of appeal was filed.

This court's opinion and judgment of October 14, 1999, reversed the trial court's August 11, 1998, judgment of dismissal. Although we stated that our basis for this reversal was the failure to hold a hearing on appellant's motion to reinstate, we did not abate the appeal to allow the trial court to hold a hearing and rule again on the motion to reinstate. Our judgment reversed the trial court's judgment, effectively returning the cause to the point before entry of final judgment. Because the trial court has not entered another final judgment, the trial court retains plenary power over this cause. In spite of the docket sheet entry indicating the trial held a hearing and ruled on the motion to reinstate on July 12, 2000, no final judgment of dismissal existed at that time and therefore, there was nothing to reinstate.

Because there is no final judgment in this case, we have no jurisdiction to act on this matter. *See Goodchild v. Bombardier-Rotax GMBH Motorenfabrik*, 979 S.W.2d 1, 4 (Tex. App.—Houston [14th Dist.] 1998, pet. denied). On October 25, 2000, notification was transmitted to all parties of the Court's intent to dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). Appellant's response fails to demonstrate that this Court has jurisdiction to entertain the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed November 16, 2000.

Panel consists of Justices Anderson, Fowler, and Edelman.

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