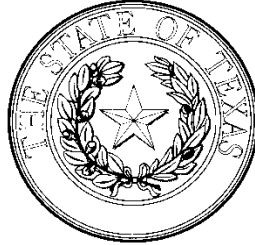


Opinion issued June 18, 2020



**In The
Court of Appeals
For The
First District of Texas**

NO. 01-19-00476-CV

IN THE INTEREST OF J.D.G., A CHILD

**On Appeal from the 245th District Court
Harris County, Texas
Trial Court Case No. 2008-47423**

MEMORANDUM OPINION

Appellant, father, attempts to appeal from the trial court's April 2, 2019 Commitment Order Enforcing Child Support and Medical Support Obligation.

We dismiss for lack of jurisdiction.

On July 20, 2018, the Attorney General of Texas filed a motion for enforcement of a February 9, 2009 order for child support and medical support. On

April 2, 2019, the trial court entered an order in which it found that father was in arrears on his child support and medical support obligations. The trial court ordered father to pay on the arrearages, including \$90,937.36 for his child support obligations and \$15,644.71 for his medical support obligations. The trial court also found father in contempt of court for failing to make four court-ordered child support payments and four court-ordered medical support payments. The trial court rendered a judgment of punitive contempt, ordering father be committed to the county jail for a period of 180 days for each of the eight violations, to run concurrently.

Father filed a notice of appeal on June 20, 2019, stating that he wished to appeal the “findings, conclusions, or recommendations” included in the April 2, 2019 “final judgment.” The clerk’s record was filed, and our review of the clerk’s record raised questions regarding this Court’s jurisdiction over this appeal.

The trial court’s April 2, 2019 order includes judgments regarding: (1) the support arrearages; and (2) punitive contempt. We will address this Court’s lack of jurisdiction for each portion separately.

With respect to the portion of the trial court’s order requiring father to pay arrearages, the record reflects that the notice of appeal was not timely filed. Generally, a notice of appeal is due within thirty days after the judgment is signed. *See* TEX. R. APP. P. 26.1. The deadline to file a notice of appeal is extended to ninety days after the date the judgment is signed if, within thirty days after the judgment is

signed, any party files a motion for new trial, motion to modify the judgment, or motion to reinstate. *Id.*; *see also* TEX. R. CIV. P. 329b(a), (g). The time to file a notice of appeal also may be extended if, within fifteen days after the deadline to file the notice of appeal, a party properly files a motion for extension. *See* TEX. R. APP. P. 10.5(b), 26.3. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Texas Rule of Appellate Procedure 26.1, but within the fifteen-day extension period provided by rule 26.3. *See* TEX. R. APP. P. 26.1, 26.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997).

Here, father seeks to appeal the trial court's April 2, 2019 Commitment Order Enforcing Child Support and Medical Support Obligation. The record does not contain a motion that would have extended the timetable for filing his notice of appeal. *See* TEX. R. CIV. P. 329b(g); TEX. R. APP. P. 26.1(a). As such, father's deadline to file a notice of appeal was May 2, 2019, or May 17, 2019, with a fifteen-day extension. TEX. R. APP. P. 4.1, 26.1, 26.3; *see also* TEX. R. CIV. P. 329b(g). Father did not file his notice of appeal until June 20, 2019. Without a timely filed notice of appeal, this Court lacks jurisdiction over the support arrearages portion of this appeal. *See* TEX. R. APP. P. 25.1; *see also* *Sweed v. Nye*, 323 S.W.3d 873, 874–75 (Tex. 2010).

This Court also lacks jurisdiction to review the punitive contempt portion of the trial court’s April 2, 2019 order because “[d]ecisions in contempt proceedings cannot be reviewed on direct appeal.” *See Cline v. Cline*, 557 S.W.3d 810, 812 (Tex. App.—Houston [1st Dist.] 2018, no pet.). Contempt orders may be reviewed on appeal by an application for writ of habeas corpus (if the contemnor is confined) or a petition for writ of mandamus (if no confinement is involved).¹ *Id.* Because father brought his contempt-based complaints to this Court on direct appeal, and failed to make a specific request to invoke the Court’s original jurisdiction, we dismiss the remaining portion of this appeal for lack of jurisdiction. *See In the Interest of T.L.K., a Child*, 90 S.W.3d 833, 841 (Tex. App.—San Antonio 2002, no pet.) (“Appellate courts do not have jurisdiction to review contempt proceedings on direct appeal.”).

This Court lacks jurisdiction over father’s appeal from the trial court’s April 2, 2019 Commitment Order Enforcing Child Support and Medical Support

¹ Under certain circumstances, an appellate court may treat a direct appeal as a petition for writ of mandamus. Specifically, appellate courts may treat a direct appeal as request for mandamus relief where an appellant makes a specific request to invoke the court’s original jurisdiction. *See CMH Homes v. Perez*, 340 S.W.3d 444, 452-53 (Tex. 2011) (holding appeal of unappealable order may be construed as petition for writ of mandamus where appellant specifically requested mandamus relief and filed separate document titled “petition for writ of mandamus”); *see also Jones v. Brelsford*, 390 S.W.3d 486, 497 n.7 (Tex. App.—Houston [1st Dist.] 2012, no pet.) (refusing to construe appeal as petition for writ of mandamus where appellant failed to make specific request for mandamus relief).

Obligation. We dismiss the appeal for lack of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss any other pending motions as moot.

PER CURIAM

Panel consists of Justices Keyes, Landau, and Countiss.