



Case Summaries December 29, 2023

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OPINIONS

JURISDICTION

Appellate

In re A.C.T.M., ___ S.W.3d ___, 2023 WL ___ (Tex. Dec. 29, 2023) (per curiam) [[23-0589](#)]

In this appellate-jurisdiction case, the court of appeals dismissed as untimely two attempts by Mother to appeal the trial court's termination of her parental rights.

The trial court first made an oral pronouncement terminating Mother's parental rights in October. Mother filed her notice of appeal from that pronouncement before the trial court signed a written order. The trial court did sign a written order in November, but it was never made part of the appellate record. The court of appeals dismissed Mother's appeal for lack of jurisdiction after concluding that the trial court had not yet issued a final judgment.

In January, after the court of appeals issued its opinion and judgment, the trial court signed a second order terminating Mother's parental rights. Mother filed a new notice of appeal, but a split panel of the court of appeals dismissed this appeal as untimely too. In an about-face, the majority concluded that the November order was the trial court's final judgment after all, rendering Mother's second notice of appeal untimely. The majority further reasoned that the trial court's January order is void because it was issued after the court's plenary power expired. Mother filed a petition for review in the Supreme Court. The Department of Family and Protective Services conceded error in its response.

The Supreme Court reversed without requesting further briefing or hearing argument, holding that Mother timely sought to invoke the appellate court's jurisdiction with respect to both orders. The Court explained that if the November order was the trial court's final judgment, then Mother's premature appeal from the court's oral pronouncement was effective under Texas Rule of Appellate Procedure 27.1(a) to invoke the appellate court's jurisdiction. Furthermore, that the November order was not included in the record of Mother's first appeal presented a record defect, not a jurisdictional defect. By obtaining the January order and filing a new notice of appeal, Mother was following the court of appeals' instructions, and she could not have done more to invoke her appellate rights. The Court remanded the case to the court of appeals with instructions to address the merits.