



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

MARIA DEJESUS MERAZ,	§	No. 08-22-00116-CV
Appellant,	§	Appeal from the
v.	§	County Court at Law No. 1
MAURICE WALKER BOOKER,	§	of Midland County, Texas
Appellee.	§	(TC# CC22102)

**MEMORANDUM OPINION**

Appellees Tyrone Booker and Michael Reed, as representatives of the Estate of Maurice Walker Booker, and Michael Reed, individually, request the Court dismiss this appeal for lack of jurisdiction because there is not an appealable final judgment from the trial court. Finding the Court does not have jurisdiction, we dismiss this appeal.

**BACKGROUND**

This case stems from an automobile accident that Appellees allege Appellant Maria DeJesus Meraz caused. After the parties reached a settlement, Appellees filed a motion to enforce the settlement agreement and interplead the settlement funds with the trial court. The trial court entered an order granting Appellees' motion for interpleader and ordered the settlement funds be paid into the court registry "to be disbursed at the Court's discretion." Meraz filed a notice of

appeal from the trial court's order, that was docketed with the 11th Court of Appeals, and subsequently transferred to this Court. *See* TEX.R.APP.P. 41.3.

### **DISCUSSION**

Appellees filed a motion to dismiss the appeal arguing the Court lacks jurisdiction because the trial court's order is not a final appealable order. We agree.

Unless otherwise permitted by statute, appeals may only be had from final orders or judgments. *Jack B. Anglin Co., Inc v. Tipps*, 842 S.W.2d 266, 272 (Tex. 1992). The Texas Supreme Court defines a judgment as final and appealable “if and only if either it actually disposes of all claims and parties then before the court, regardless of its language, or it states with unmistakable clarity that it is a final judgment as to all claims and all parties.” *Lehmann v. Har-Con Corporation*, 39 S.W.3d 191, 192-93 (Tex. 2001), *overruled on other grounds by Industrial Specialists, LLC v. Blanchard Refining Company, LLC*, No. 20-0174, 2022 WL 2082236, at \*2 (Tex. June 10, 2022). Here, the trial court's order granting Appellees' motion only disposed of one of the two stages necessary in an interpleader action. *Clayton v. Mony Life Insurance Company of America*, 284 S.W.3d 398, 402 (Tex.App.—Beaumont 2009, no pet.) (“In practice, interpleader generally involves two stages.”). Indeed, the order expressly stated the trial court would determine how to disburse the fund in a future order. Because the trial court's order was not a final order, and because no statute permits an interlocutory appeal of orders approving interpleader, we lack jurisdiction over this appeal. *See* TEX.CIV.PRAC.&REM.CODE ANN. § 51.014; *Law Office of Henry Gates Steen, Jr., P.C. v. Eagle Pass Independent School District*, 293 S.W.3d 792, 793 (Tex.App.—San Antonio 2009, no pet.) (“Having further considered the jurisdictional issue, we hold the trial court's order granting the interpleader petition is an unappealable interlocutory order. Accordingly, we dismiss the appeal for lack of jurisdiction.”).

Appellees also ask the Court to sanction Appellant for filing a frivolous appeal under Texas Rule of Appellate Procedure 45 (Damages for Frivolous Appeal in Civil Cases). Rule 45 permits the Court to award “just damages” if we determine an appeal was frivolously filed. As we have previously held, an appeal is frivolous when the record, viewed from the perspective of the advocate, “does not provide reasonable grounds for the advocate to believe that the case could be reversed.” *Ortiz v. St. Teresa Nursing & Rehabilitation Center, LLC*, 579 S.W.3d 696, 708 (Tex.App.—El Paso 2019, pet. denied). Whether to grant sanctions is a matter of discretion, and the Court is not required to award just damages in every case in which an appeal is frivolous. *Id.* Indeed, “we only do so in truly egregious circumstances.” *McCullough v. Scarbrough, Medlin, & Associates Inc.*, No. 08-12-00205-CV, 2012 WL 3100845, at \*1 (Tex.App.—El Paso July 31, 2012, no pet.)(mem. op.). After a review of briefing and other papers filed in this Court, we deny Appellees’ request for sanctions.

### **CONCLUSION**

Because the trial court’s order granting interpleader is not a final judgment and is not an appealable interlocutory order, we lack jurisdiction to consider it on appeal. Accordingly, we grant Appellees’ motion and dismiss the appeal for lack of jurisdiction. However, we deny Appellees’ request for sanctions under Texas Rule of Appellate Procedure 45.

July 29, 2022

YVONNE T. RODRIGUEZ, Chief Justice

Before Rodriguez, C.J., Palafox, and Alley, JJ.