

Opinion filed July 7, 2023



In The
Eleventh Court of Appeals

No. 11-23-00140-CV

**AARON MATTHEW ESTRADA, INDIVIDUALLY AND AS
NEXT FRIEND OF M.K.L.E., A MINOR, Appellant**

V.

**LUKE MIX, MARIA MIX, NECOLE STOGSDILL, TRAVAS
STOGSDILL, AND STATE AUTO INSURANCE COMPANIES
Appellees**

**On Appeal from the 220th District Court
Comanche County, Texas
Trial Court Cause No. CV14221**

MEMORANDUM OPINION

Appellant, Aaron Matthew Estrada, filed a notice of appeal from the trial court's order granting the no-evidence motion for summary judgment in favor of Appellees Luke Mix and Maria Mix, two of the defendants in the underlying lawsuit. After this appeal was docketed, we informed Appellant that it did not appear that the order from which Appellant attempted to appeal was final and appealable, and we requested that Appellant provide this court with a response showing grounds to continue this appeal. *See* TEX. R. APP. P. 42.3. In response, Appellant paid the filing

fee and filed a motion to dismiss the appeal “without prejudice” because he “no longer wishes to proceed” against Appellees Luke Mix and Maria Mix.

Unless specifically authorized by statute, appeals may be taken only from final judgments. *Tex. A & M Univ. Sys. v. Koseoglu*, 233 S.W.3d 835, 840–41 (Tex. 2007); *Lehmann v. Har–Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A judgment is final and appealable if it disposes of all parties and all claims in the case. *Lehmann*, 39 S.W.3d at 195. The order that Appellant attempts to appeal is not a final, appealable order. *See id.* at 205–06 (a summary judgment is final and appealable if “it actually disposes of every pending claim and party” or “clearly and unequivocally states that it finally disposes of all claims and all parties”).

In response to our letter requesting Appellant to show grounds to continue, Appellant filed a motion to dismiss this appeal “without prejudice.” *See* TEX. R. APP. P. 42.1(a)(1). In his motion, Appellant states that he “no longer wishes to proceed in this case against Appellees” Luke Mix and Maria Mix and requests that we enter an order “dismissing without prejudice all of [Appellant’s] claims against” them. *See id.* Appellant further indicates that Appellees Luke Mix and Maria Mix do not oppose the motion, and states that “[t]axable court costs shall be paid by the party incurring the same.” *See id.* R. 42.1(d).

We grant Appellants’ motion and, pursuant to the motion, dismiss this appeal as it pertains to Appellees Luke Mix and Maria Mix. We dismiss the appeal against the remaining Appellees for want of jurisdiction.

W. BRUCE WILLIAMS

JUSTICE

July 7, 2023

Panel consists of: Bailey, C.J.,
Trotter, J., and Williams, J.