

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00098-CV

RICHARD FRANCIS, Appellant

V.

CASSANDRA FAYE FRANCIS, Appellee

On Appeal from the 279th District Court
Jefferson County, Texas
Trial Cause No. F-137,604

MEMORANDUM OPINION

Richard Francis filed a notice of appeal from a judgment of contempt. We questioned our jurisdiction over the appeal and instructed the parties to file written responses. This Court possesses original habeas jurisdiction in a case in which a person's liberty is restrained for a violation of an order, judgment, or decree in a civil case. *See* Tex. Gov't Code Ann. § 22.221(d) (West 2004). Generally in such a case, neither appeal nor mandamus is the appropriate vehicle for relief; "a petition for writ of habeas corpus is generally the only method for attacking an order of contempt." *In re Reece*, No. 09-0520,

2011 WL 2112786, *7 (Tex. May 27, 2011) (citing *Deramus v. Thornton*, 160 Tex. 494, 333 S.W.2d 824, 827 (1960)).¹ An appeal may be taken from an arrearage judgment. *See In re B.A.T.*, No. 05-10-00593-CV, 2010 WL 3991426, *1 (Tex. App.—Dallas Oct. 11, 2010, no pet.) (mem. op). The arrearage judgment signed on December 8, 2010, was filed more than thirty days before Francis filed a notice of appeal. *See* Tex. R. App. P. 26.1. Francis did not attempt to perfect an appeal within the time for which an extension may be granted for perfecting an appeal. *See* Tex. R. App. P. 26.3. This Court lacks jurisdiction over the appeal. Accordingly, the appeal is dismissed.

APPEAL DISMISSED.

DAVID GAULTNEY
Justice

Opinion Delivered June 30, 2011

Before McKeithen, C.J., Gaultney and Kreger, JJ.

¹An original proceeding in habeas corpus has been filed and is proceeding separately from this appeal.