



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

EPHRAM FRANK SIMS,	§	No. 08-18-00068-CV
	§	
Appellant,	§	Appeal from the
	§	
v.	§	65th District Court
	§	
TRENESHA DANIELLE BIGGERS	§	of El Paso County, Texas
SIMS,	§	
	§	(TC# 2016DCM7851)
Appellee.	§	

**MEMORANDUM OPINION**

This appeal is before the Court on its own motion to determine whether it should be dismissed for want of jurisdiction. Finding that the order granting a motion for new trial is not appealable, we dismiss the appeal for want of jurisdiction.

It is well settled that appellate courts have jurisdiction over final judgments and interlocutory orders made appealable by statute. *Lehmann v. Har-Con Corporation*, 39 S.W.3d 191, 195 (Tex. 2001); TEX.CIV.PRAC. & REM.CODE ANN. § 51.014 (West Supp. 2017)(authorizing appeals from certain interlocutory orders). An order granting a motion for new trial rendered during the time the trial court has plenary power is generally not appealable. *See Wilkins v. Methodist Health Care System*, 160 S.W.3d 559, 563 (Tex. 2005). The Texas Supreme Court has recognized only two exceptions to this rule: (1) where the trial court's order is wholly void; and (2) where the trial court specified in the written order that the sole ground for granting the motion

was that the jury's answers to special issues were irreconcilably conflicting). *See Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 918 (Tex. 1985)(orig. proceeding). The Court gave notice of its intent to dismiss the appeal for lack of jurisdiction, but provided Appellant an opportunity file a response establishing that the appeal should be allowed to proceed. Appellant did not file a response. The trial court's order granting the new trial does not specify that it was granted on the ground that the jury's answers to special issues were irreconcilably conflicting. Further, there is nothing to indicate that the order granting the new trial is wholly void. Accordingly, we dismiss the appeal for lack of jurisdiction.

GINA M. PALAFOX, Justice

May 23, 2018

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