

Dismiss; Opinion Filed September 17, 2020



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-20-00737-CV

J. CHRISTIAN CATHER, M.D. AND
J. CHRISTIAN CATHER, M.D., PLLC, Appellants

V.

MADELYN DEAN, Appellee

On Appeal from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-20-06165

MEMORANDUM OPINION

Before Justices Whitehill, Molberg, and Nowell
Opinion by Justice Nowell

Before the Court is appellants' motion for extension of time to file a petition for permissive appeal. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d) (authorizing trial court to permit interlocutory appeal from otherwise unappealable interlocutory order under certain circumstances), (f) (requiring party seeking to appeal to petition appellate court for permission); TEX. R. APP. P. 28.3 (governing procedure for filing petition for permissive appeal). Appellants assert the extension is necessary because the order to be appealed does not fully comply with the

requirements of Texas Rule of Civil Procedure 168, which sets forth the process for initiating a permissive appeal.

Under Rule 168, a trial court may permit an appeal from an otherwise unappealable interlocutory order. TEX. R. CIV. P. 168. To do so, the trial court must sign a written order stating, in relevant part, its permission to appeal. *See id.* The date the order stating the court's permission is signed triggers the deadline for filing the petition for permissive appeal. *See* TEX. R. APP. P. 28.3(c). Without a written order stating the trial court's permission, no basis for filing a petition for permissive appeal exists. *See Hebert v. JJT Constr.*, 438 S.W.3d 139, 142 (Tex. App.—Houston [14th Dist.] 2014, no pet.).

The clerk's record that has been filed includes the order to be appealed as well as an amended order. Neither order includes a statement of permission. Accordingly, no basis for filing a petition for permissive appeal exists, and the motion for extension of time is premature. *See id.* We dismiss the motion and appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Erin A. Nowell/

ERIN A. NOWELL
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

J. CHRISTIAN CATHER, M.D.
AND J. CHRISTIAN CATHER,
M.D., PLLC, Appellants

No. 05-20-00737-CV V.

MADELYN DEAN, Appellee

On Appeal from the 191st Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DC-20-06165.
Opinion delivered by Justice Nowell,
Justices Whitehill and Molberg
participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** that appellee Madelyn Dean recover her costs, if any, of this appeal from appellants J. Christian Cather, M.D. and J. Christian Cather, M.D., PLLC.

Judgment entered this 17th day of September, 2020.