Opinion issued December 29, 2022

In The

Court of Appeals

For The

First District of Texas

NO. 01-21-00622 -CV

KAREN WILLIAMSON, Appellant

V.

BALBIR CHAHAL, MUSTANSIR VEJLANI, KAMBIZ SHETABI, REBECCA WIMBERLY, AND TRMC, LLC D/B/A HCA HOUSTON HEALTHCARE TOMBALL HOSPITAL, Appellees

---

On Appeal from the 125th District Court
Harris County, Texas
Trial Court Case No. 2021-14298

MEMORANDUM OPINION

Appellees—Balbir Chahal, Mustansir Vejlani, Kambiz Shetabi, Rebecca Wimberly, and TRMC, LLC d/b/a HCA Houston Healthcare Tomball Hospital ("HCA Houston")—are some, but not all, of the defendants in a suit brought by pro

se appellant Karen Williamson complaining about the medical care Appellees provided her spouse. Contending that Williamson alleged health care liability claims subject to the procedural requirements of Chapter 74 of the Texas Civil Practice and Remedies Code, Appellees each moved to dismiss under Section 74.351(b) when Williamson did not file an expert report by the statutory deadline.[1] The trial court granted the motions and dismissed Williamson's claims as to all Appellees. As to Chahal only, the trial court also granted a motion to sever Williamson's claims. Williamson appealed.

Appellees have moved to dismiss Williamson's appeal on the grounds that (1) no statute authorizes an interlocutory appeal of orders granting a motion to dismiss under Section 74.351(b) and (2) the dismissal orders are not final for purposes of appeal until Williamson's claims against the other defendants who are not parties to this appeal are resolved. We agree that we lack jurisdiction to review the trial court's orders dismissing Williamson's claims against Vejlani, Shetabi, Wimberly, and HCA Houston because the orders are not final for purposes of appeal as to them. As to Chahal, however, there is a final judgment, which we affirm.

---

[1] *See* TEX. CIV. PRAC. & REM. CODE §§ 74.351–53; *see also id.* § 74.351(a) (setting deadline for expert reports in health care liability claims).

Background

In February 2021, Williamson filed her original petition alleging that the acts or omissions of Appellees—three doctors, a registered nurse, and a hospital—caused her spouse's death. Williamson also pleaded wrongful death claims against other defendants. Appellees answered Williamson's suit and, after waiting at least 120 days from their respective answer dates, moved to dismiss Williamson's claims against them for failure to timely serve a Chapter 74 expert report. *See* TEX. CIV. PRAC. & REM. CODE § 74.351(a)–(b). In orders dated October 8 and October 11, 2021, the trial court granted the relief requested under Chapter 74 and dismissed Williamson's claims against Appellees. As to Chahal only, the trial court severed Williamson's claims on November 1, 2021. Williamson filed two notices of appeal: she filed her first notice of appeal on October 27, 2021, before the severance, and she filed her second notice of appeal on November 10, 2021, after the severance.

Appellate Jurisdiction

We begin by determining our own jurisdiction. *See City of Hous. v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013) (reviewing courts have affirmative obligation to ascertain that jurisdiction exists). Texas appellate courts have jurisdiction to review a trial court's order by appeal if the order constitutes a final judgment or if a statute authorizes an interlocutory appeal. *See Bison Bldg. Materials, Ltd. v. Aldridge*, 422 S.W.3d 582, 585 (Tex. 2012). Appellees contend that because no statute authorizes

an interlocutory appeal from an order granting a motion to dismiss health care liability claims under Section 74.351(b), this Court has appellate jurisdiction only if there is a final judgment. We agree.

We have limited jurisdiction to review certain interlocutory orders in the context of health care liability claims. *Kim v. Ramos*, 632 S.W.3d 258, 265 (Tex. App.—Houston [1st Dist.] 2021, no pet.). For such claims, Section 51.014(a)(9) of the Texas Civil Practice and Remedies Code allows interlocutory appeals from orders "den[ying] all or part of the relief sought by a motion [to dismiss] under Section 74.351(b), except that an appeal may not be taken from an order granting an extension under Section 74.351." TEX. CIV. PRAC. & REM. CODE § 51.014(a)(9). And Section 51.014(a)(10) allows interlocutory appeals from orders "grant[ing] relief sought by a motion under Section 74.351(l)." *Id.* § 51.014(a)(10). We must strictly construe Section 51.014 as a narrow exception to the general rule that only final judgments or orders are appealable. *Bally Total Fitness Corp. v. Jackson*, 53 S.W.3d 352, 355 (Tex. 2001); *Acad. of Oriental Med., L.L.C. v. Andra*, 173 S.W.3d 184, 185–86 (Tex. App.—Austin 2005, no pet.).

The trial court's orders granting Appellees' motions to dismiss are not the type of orders for which an interlocutory appeal is authorized under either Section 51.014(a)(9) or Section 51.014(a)(10). Both sections regard motions filed in health care liability claims under Section 74.351. Relevant here, Section 74.351 requires a

health care liability claimant, "not later than the 120th day after the date each defendant's original answer is filed or a later date required under Section 74.353, [to] serve on that party or the party's attorney one or more expert reports . . . ." TEX. CIV. PRAC. & REM. CODE § 74.351(a). If the claimant fails to timely file an expert report, the affected physician or health care provider may move to dismiss under Section 74.351(b). *Id.* § 74.351(b). If, however, an expert report is filed but does not comply with other statutory requirements, the affected physician or health care provider may file a motion challenging the adequacy of the report under Section 74.351(l). *See id.* § 74.351(l).

Appellees each moved to dismiss under Section 74.351(b) on the sole ground that Williamson did not file any expert reports. No Appellee sought relief under Section 74.351(l). Consequently, only Section 51.014(a)(9)—pertaining to Section 74.351(b) motions—is potentially implicated here. *See id.* § 51.14(a)(9); *see also id.* § 74.351(b). But it does not apply. Although Appellees moved to dismiss under Section 74.351(b), the trial court *granted* the requested relief, and Section 51.014(a)(9) only authorizes interlocutory appeals from the *denial* of such relief. *See Miranda v. Farley*, No. 13-18-00645-CV, 2019 WL 1716839, at *1 (Tex. App.—Corpus Christi–Edinburg Apr. 18, 2019, no pet.) (mem. op.) (holding Section 51.014(a)(9) does not authorize interlocutory appeals from orders granting relief sought by Section 74.351(b) motion); *Du Bois v. Irfan*, No. 14-15-01032-CV, 2016

WL 1533746, at *1 (Tex. App.—Houston [14th Dist.] Apr. 14, 2016) (mem. op.) (same); *Osborne v. Rowe*, No. 02-15-00277-CV, 2015 WL 6556298, at *1 (Tex. App.—Fort Worth Oct. 29, 2015) (mem. op.) (same). We therefore conclude that Section 51.014(a)(9) does not confer jurisdiction.

Because Section 51.014(a)(9) does not confer jurisdiction—and neither does any other statute—we have jurisdiction only if the trial court's orders are final for purposes of appeal. *See Bison Bldg. Materials*, 422 S.W.3d at 585. Accordingly, we turn to whether the orders are final for the purposes of appeal as to any appellee.

A. There is no final judgment as to Vejlani, Shetabi, Wimberly, and HCA Houston

If there has not been a conventional trial on the merits, a judgment or order is final for purposes of appeal only if it either (1) actually disposes of all claims and parties then before the court, regardless of its language, or (2) states with "unmistakably clarity" that it is intended as a final judgment as to all claims and all parties. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 192–93 (Tex. 2001); *see Farm Bureau Cnty. Mut. Ins. Co. v. Rogers*, 455 S.W.3d 161, 163 (Tex. 2015). Here, the record does not show either circumstance as to Vejlani, Shetabi, Wimberly, or HCA Houston. That is, the record does not show that the trial court's orders granting these Appellees' motions to dismiss "actually dispose[d] of all claims and parties then before the court." *See Lehmann*, 39 S.W.3d at 192–93. The pertinent dismissal orders do not mention or expressly dispose of the claims pending against the other

defendants in the original cause number who are not parties to this appeal. *See Farm Bureau*, 455 S.W.3d at 163 (recognizing that "there must be some other clear indication that the trial court intended the order to completely dispose of the entire case"). Nor do they state that they dispose of all claims and all parties. *See Lehmann*, 39 S.W.3d at 206 ("A statement like, 'This judgment finally disposes of all parties and all claims and is appealable', would leave no doubt about the court's intention.").

So, there is not a final judgment as to Vejlani, Shetabi, Wimberly, or HCA Houston. And because there is also not a statute authorizing an interlocutory appeal, we grant the motion to dismiss Williamson's appeal as to these Appellees.

B. There is a final judgment as to Chahal

We reach a different conclusion on the question of finality as to Chahal. The trial court severed the claims against Chahal. The severance transformed the interlocutory order granting Chahal's Section 74.351(b) motion to dismiss into a final and appealable judgment as to Chahal only. Chahal points out that although Williamson filed a notice of appeal in the original cause number (No. 2021-14298), she failed to file a separate notice of appeal in the severed cause number (No. 2021-14298-A). This, according to Chahal, is another jurisdictional defect that deprives the Court of jurisdiction to review the dismissal of Williamson's claims against him. We disagree.

The Texas Supreme Court has held that the "notation of [an] incorrect cause number on [a] notice of appeal does not defeat the jurisdiction of the court of appeals" if the instrument is a "bona fide" attempt to invoke appellate jurisdiction. *City of San Antonio v. Rodriguez*, 828 S.W.2d 417, 418 (Tex. 1992); *see also Crown Life Ins. Co. v. Est. of Gonzalez*, 820 S.W.2d 121, 121 (Tex. 1991) (per curiam) ("[T]he decisions of the courts of appeals [should] turn on substance rather than procedural technicality." (citations omitted)).

Here, Williamson timely filed her original notice of appeal on October 28, before the trial court granted Chahal's motion for severance. *See* TEX. R. APP. P. 26.1. That notice of appeal correctly identified the trial court and the original cause number and stated that she was attempting to appeal all orders issued after October 6, which included the October 11 order granting Chahal's Section 74.351(b) motion to dismiss. *See* TEX. R. APP. P. 25.1(d). Her timely filed amended notice of appeal contained this same information, even if it incorrectly stated only the original cause number and omitted the severed cause number. *See* TEX. R. APP. P. 25.1(d), (g). We conclude this notice of appeal was a bona fide attempt by Williamson to invoke our jurisdiction to review the trial court's orders on her claims against Chahal and that her failure to include the severed cause number does not defeat our appellate jurisdiction. *See Rodriguez*, 828 S.W.2d at 418; *see also Paselk v. Rabun*, 293 S.W.3d 600, 606–08 (Tex. App.—Texarkana 2009, pet. denied) (concluding notice

of appeal filed under original cause number was bona fide attempt to invoke appellate court's jurisdiction over partial summary judgment that was severed). Accordingly, we deny the motion to dismiss as to Chahal and address Williamson's complaints, if any, as they relate to him.

Briefing Waiver

Chahal complains that Williamson's appellate briefing "does not point out any error allegedly committed by the trial court or even attack the merits of the trial court granting [his] [Section 74.351(b)] motion to dismiss." And he contends Williamson has waived her issues on appeal because of inadequate briefing. We agree.

Although we liberally construe pro se briefs, we still require pro se litigants to comply with applicable laws and rules of procedure. *See Wheeler v. Green*, 157 S.W.3d 439, 444 (Tex. 2005) (per curiam); *Charles v. Dickinson Indep. Sch. Dist.*, No. 01-20-00215-CV, 2022 WL 904434, at *3–4 (Tex. App.—Houston [1st Dist.] Mar. 29, 2022, no pet.) (mem. op.). "Having two sets of rules—a strict set for attorneys and a lenient set for pro se parties—might encourage litigants to discard their valuable right to the advice and assistance of counsel." *Wheeler*, 157 S.W.3d at 444. "Litigants who represent themselves must comply with the applicable procedural rules, or else they would be given an unfair advantage over litigants represented by counsel." *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 185 (Tex. 1978).

Relevant here, Rule 38.1 requires an appellant's brief to "state concisely all issues or points presented for review," to "state concisely and without argument the facts pertinent to the issues or points presented . . . [and] be supported by record references," and to "contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." TEX. R. APP. P. 38.1(f), (g), (i). "A brief that does not contain citations to appropriate authorities and to the record for a given issue waives that issue." *Guimaraes v. Brann*, 562 S.W.3d 521, 545 (Tex. App.—Houston [1st Dist.] 2018, pet. denied) (citing *Abdelnour v. Mid Nat'l Holdings, Inc.*, 190 S.W.3d 237, 242 (Tex. App.—Houston [1st Dist.] 2006, no pet.), and *San Saba Energy, L.P. v. Crawford*, 171 S.W.3d 323, 338 (Tex. App.—Houston [14th Dist.] 2005, no pet.)).

Williamson filed six briefs: an opening brief and a separate reply to Appellees' responsive briefs. Under a liberal reading of these briefs, we can discern only a regurgitation of Williamson's complaints about the medical care her spouse received. We are unable to discern any specific complaint about trial court error in the disposition of her claims against Chahal. Consequently, Williamson's briefing does not meet the minimum required to present any issue or argument for appellate review. *See* TEX. R. APP. P. 38.1(f), (g), (i); *see also Guimaraes*, 562 S.W.3d at 545. And because it would be inappropriate for this Court to speculate about what Williamson may have intended to raise or argue, we find waiver due to inadequate

briefing. *See Canton-Carter v. Baylor Coll. of Med.*, 271 S.W.3d 928, 931–32 (Tex. App.—Houston [14th Dist.] 2008, no pet.) (advising that "[i]t would be inappropriate for [appellate] court to speculate as to what appellant may have intended to raise as an error by the trial court on appeal" because doing so forces appellate court to "stray from [its] role as a neutral adjudicator and become an advocate for appellant"). In short, nothing is assigned for our review as to the trial court's rulings for Chahal. *See Guimaraes*, 562 S.W.3d at 545.

Conclusion

For these reasons, we dismiss Williamson's appeal as to Vejlani, Shetabi, Wimberly, and HCA Houston, and we affirm the trial court's judgment as Chahal. All other pending motions are dismissed as moot.

Sarah Beth Landau
Justice

Panel consists of Chief Justice Radack and Justices Landau and Hightower.