

Dismissed and Memorandum Opinion filed February 3, 2011.



In The

Fourteenth Court of Appeals

NO. 14-09-01024-CV

KAREN SUE HOOPER, Appellant

V.

DONALD PAUL HOOPER, Appellee

**On Appeal from the 309th District Court
Harris County, Texas
Trial Court Cause No. 2001-63569**

MEMORANDUM OPINION

Appellant Karen Sue Hooper appeals from the trial court's order denying her motion to enforce a child support order by contempt against her ex-husband, appellee Donald Paul Hooper. We dismiss this appeal for lack of jurisdiction.

Appellant previously sought to enforce a child support order against appellee. The trial court entered a new order, which appellant claims clarified the prior order, and appellee failed to comply with that order as well. Appellant sought to enforce this second order by contempt, and the trial court denied the motion and found that the second order "is not enforceable by contempt" and that appellant "may not seek enforcement by

contempt” of that order “because doing so would place [appellee] in double jeopardy.” This appeal followed.

Appellee filed a motion to dismiss this appeal for lack of jurisdiction, arguing that rulings on contempt motions are not appealable. We agree. Contempt proceedings, whether the court grants or denies the motion for contempt, are not appealable because they “are not concerned with disposing of all claims and parties before the court, as are judgments; instead, contempt proceedings involve a court’s enforcement of its own orders, regardless of the status of the claims between the parties before it.” *In re Office of Attorney Gen. of Tex.*, 215 S.W.3d 913, 915–16 (Tex. App.—Fort Worth 2007, orig. proceeding); *see also Norman v. Norman*, 692 S.W.2d 655, 655 (Tex. 1985) (holding that court of appeals had no jurisdiction over an appeal from an order finding a party not in contempt); *In re Naylor*, 120 S.W.3d 498, 500 (Tex. App.—Texarkana 2003, orig. proceeding) (“Decisions in contempt proceedings are not appealable.”). A ruling denying a motion for contempt can be challenged only by an original proceeding. *In re B.A.C.*, 144 S.W.3d 8, 11 (Tex. App.—Waco 2004, no pet.); *Naylor*, 120 S.W.3d at 501. Thus, because this is an appeal of the trial court’s refusal to find appellee in contempt, we have no jurisdiction.

Appellant argues that these authorities do not apply because the trial court did not make a decision about whether to hold him in contempt, but made a legal ruling regarding the second order.¹ Courts have allowed appeals of rulings regarding unrelated issues that occur in contempt proceedings. *See, e.g., In re E.H.G.*, No. 04-08-00579-CV, 2009 WL 1406246, at *5 (Tex. App.—San Antonio May 20, 2009, no pet.) (mem. op.) (“If a motion to enforce includes a request for both a contempt finding and a money

¹ Appellant also argues that the present case is analogous to *In re A.B.*, in which the Eastland Court of Appeals heard an appeal of a trial court’s refusal to hold a father in contempt based on the trial court’s construction of a term in the divorce decree. 994 S.W.2d 229, 231–32 (Tex. App.—Eastland 1999, no writ). We do not find this case persuasive because the issue of the court’s jurisdiction was apparently never raised or considered by the court.

judgment for child support arrearage, an appellate court has jurisdiction to address the arrearage judgment because it is unrelated to the contempt order.”); *Chambers v. Rosenberg*, 916 S.W.2d 633, 634 (Tex. App.—Austin 1996, writ denied) (finding no jurisdiction to consider contempt ruling but considering legal conclusion that agreed temporary injunction, the alleged violation of which was the basis for the contempt request, was void). However, that did not occur here. The trial court did not make rulings unrelated to contempt, such as whether a child support arrearage exists. Rather, the court ruled that the order at issue is not enforceable by contempt and that enforcing this order by contempt would place appellee in double jeopardy. Without deciding whether these are correct statements of law, we hold that these rulings are relevant only to the decision of whether to hold appellee in contempt and thus are not subject to direct appeal.

We dismiss this appeal for lack of jurisdiction.

/s/ Martha Hill Jamison
Justice

Panel consists of Chief Justice Hedges, Justice Jamison, and Senior Justice Mirabal.*

*Senior Justice Margaret Garner Mirabal, sitting by assignment.