

Motion Denied; Dismissed and Memorandum Opinion filed June 2, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00142-CV

IN THE INTEREST OF S.J., a child

**On Appeal from the 314th District Court
Harris County, Texas
Trial Court Cause No. 2009-06184J**

MEMORANDUM OPINION

Appellant, Vallire Ozene, attempts to appeal from an order signed February 3, 2011, and amended on March 2, 2011, granting a non-suit to the Texas Department of Family and Protective Services. According to the clerk's record, appellant is not a party to the underlying suit. Instead, it appears that appellant filed a separate suit in cause number 2009-54577.

On May 6, 2011, notification was transmitted to the parties of this court's intention to dismiss the appeal for want of jurisdiction unless appellant filed a response on or before May 20, 2011, demonstrating that this court has jurisdiction over the the appeal. *See* Tex. R. App. P. 42.3(a). In response, appellant, who is *pro se*, filed a motion to "change

venue,” asking that her appeal be sent to the Texas Supreme Court. This court has no authority to grant appellant’s request. Accordingly, the motion to change venue is denied.

Standing, which focuses on who may bring an action, is a prerequisite to subject matter jurisdiction. *Frost Nat. Bank v. Fernandez*, 315 S.W.3d 494, 502 (Tex. 2010); *see also In re Vogel*, 261 S.W.3d 917, 920 (Tex. App.—Houston [14th Dist.] 2008, orig. proceeding) (discussing standing in custody proceedings). Standing must exist at every stage of the legal proceedings, including appeal. *Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). To establish standing for an appeal, a person must generally have been a party to the judgment. Generally, an appeal is available only to parties of record; non-parties who have not properly intervened in the trial court, lack standing to appeal the trial court’s judgment. *See Gunn v. Cavanaugh*, 391 S.W.2d 723, 724 (Tex. 1965) (stating that remedy by appeal is “available only to parties of record”).

Appellant has not established that her suit was consolidated with the underlying suit, that she intervened in this suit, or that she otherwise became a party to the suit in cause number 2009-06184J.¹ Accordingly, she lacks standing to appeal the non-suit order in this case.

Accordingly, this appeal is dismissed for lack of jurisdiction.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Seymore and Boyce.

¹ The trial court noted on its docket that it lacked jurisdiction to grant appellant’s request to appeal without payment of costs because appellant was not a party to the lawsuit.