

Concurring Opinion from Denial of En Banc Relief filed May 6, 2021.



In The

Fourteenth Court of Appeals

NO. 14-20-00750-CV

BRENDA FRANCOIS, Appellant

V.

LARRY CAMPBELL, PENSKE TRUCK LEASING CO., LP, HEARST COMMUNICATIONS, INC., AND THE HEARST CORPORATION, Appellees

**On Appeal from the 125th District Court
Harris County, Texas
Trial Court Cause No. 2018-11129**

**C O N C U R R I N G O P I N I O N F R O M D E N I A L O F
E N B A N C R E L I E F**

The court dismissed this appeal on January 12, 2021, specifically because the Appellant did not make arrangements to have the clerk's record filed with us. However, the clerk's record was filed three days later. Appellant's Motion for En Banc Reconsideration is correct in asserting that the principles of equity and justice would normally allow us to withdraw that dismissal and let the appeal proceed.

However, a review of the clerk's record shows that on January 10, 2020, the trial court signed a final judgment granting the motion to dismiss filed by Appellees. Appellant timely filed a motion for new trial on February 10, 2020, and that motion was overruled by operation of law on March 25, 2020. *See* Tex. R. Civ. P. 4 (computation of time); Tex. R. Civ. P. 329b(a) (time for filing motion for new trial); Tex. R. Civ. P. 329b(c) (motion for new trial overruled by operation of law if not signed within seventy-five days of judgment). The trial court signed a written order denying Appellant's Motion for New Trial on October 19, 2020, but that order had no effect on the timeline to perfect this appeal, because that time had expired over six months prior.

I concur in the judgment of the court denying the motion for reconsideration because, under these facts, we never had jurisdiction to consider this appeal at all.

/s/ Meagan Hassan
Justice

En Banc Panel consists of Chief Justice Christopher and Justices Wise, Jewell, Bourliot, Zimmerer, Spain, Hassan, Poissant, and Wilson. (Hassan, J., concurring).