

MEMORANDUM OPINION

No. 04-08-00272-CV

Lorrie G. **HALE**,
Appellant

v.

Brian E. **HALE**,
Appellee

From the 45th Judicial District Court, Bexar County, Texas
Trial Court No. 2007-CI-14517
Honorable John D. Gabriel, Jr., Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Justice
Karen Angelini, Justice
Santee Bryan Marion, Justice

Delivered and Filed: June 18, 2008

DISMISSED FOR WANT OF JURISDICTION

This is an appeal from a judgment granting a petition for bill of review, vacating a prior judgment and ordering a new trial. We dismiss for want of jurisdiction.

In November 2003, Lorrie Hale sued Brian Hale to enforce an out-of-state divorce decree. On December 22, 2003, the trial court signed a default judgment against Brian in the enforcement action. Brian subsequently filed a petition for bill of review in the trial court, seeking to vacate the

default judgment. On January 24, 2008, the trial court granted the petition for bill of review. In its judgment, the trial court vacated the prior default judgment and ordered a new trial on the issue of child support. Lorrie later filed this appeal.

After Lorrie perfected her appeal, Brian filed a motion to dismiss the appeal for want of jurisdiction. Relying on *Jordan v. Jordan*, 907 S.W.2d 471 (Tex. 1995), Brian contends that the January 24, 2008 judgment is interlocutory and not appealable. We agree.

The January 24, 2008 judgment set aside the court's prior judgment but did not dispose of the merits of the case; therefore, the January 24, 2008 judgment is not a final, appealable judgment. *See id.* at 472 ("A bill of review which sets aside a prior judgment but does not dispose of the case on the merits is interlocutory and not appealable."); *see also In re B.F.A.*, No. 04-04-00835-CV, 2005 WL 154258, *1 (Tex. App.—San Antonio 2005, no pet.) (mem. op.). Brian's motion to dismiss is granted, and the appeal is dismissed for want of jurisdiction.

PER CURIAM