



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00587-CV

IN THE INTEREST OF C.R.-A.A., a Child

From the 216th Judicial District Court, Kerr County, Texas
Trial Court No. 15189A
The Honorable Cathy Morris, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice
Karen Angelini, Justice
Jason Pulliam, Justice

Delivered and Filed: October 26, 2016

DISMISSED FOR LACK OF JURISDICTION

Appellant A.A. filed a notice of appeal from an associate judge's recommendation to terminate her parental rights to her child, C.R.-A.A. Appellant timely filed a request for a de novo hearing. Based upon representation of counsel in a letter filed with this court, appellant filed her notice of appeal in an interest of caution because the trial court had not set a de novo hearing. The trial court has now scheduled a de novo hearing for November 18, 2016.

Associate judges do not have the power to render final judgment outside the context of certain limited exceptions listed in section 201.007 of the Family Code. *See* TEX. FAM. CODE ANN. § 201.007(a)(14)(West 2014); *Chacon v. Chacon*, 222 S.W.3d 909, 913 (Tex. App.—El Paso 2007, no pet.). None of the exceptions listed in section 201.007 apply to this case. *See* TEX. FAM. CODE ANN. § 201.007(a)(14). Unless authorized by section 201.007, an associate judge's

proposed order or recommendation has only temporary effect, pending appeal to the referring trial court. *See id.* § 201.013; *Graham v. Graham*, 414 S.W.3d 800, 801 (Tex. App.—Houston [1st Dist.] 2013, no pet.). When a notice of appeal of an associate judge’s recommendation is properly and timely filed, the referring court must hold a de novo hearing. *Id.* § 201.015 (West Supp. 2016); *Attorney General of Tex. v. Orr*, 989 S.W.2d 464, 469 (Tex. App.—Dallas 1999, no pet.). Consequently, an associate judge’s recommendation is not a final, appealable order when a request for a de novo hearing is timely filed. *See* TEX. FAM. CODE ANN. § 201.015, 201.016; *Graham*, 414 S.W.3d at 801.

Because appellant timely filed a request for a de novo hearing, appellant’s notice of appeal is premature, as there is no final judgment in this cause from which to appeal. For this reason, this appeal is dismissed for lack of jurisdiction.

Appellant’s motion to abate the appeal is DENIED. Following rendition of a final judgment or order adopting the associate judge’s recommendation, any appealing party must file a new notice of appeal.

PER CURIAM