

NO. 07-04-0109-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
APRIL 20, 2004

IN THE INTEREST OF T.R.M. AND H.S.M., CHILDREN

FROM THE 223RD DISTRICT COURT OF GRAY COUNTY;
NO. 31036; HONORABLE LEE WATERS, JUDGE

Before QUINN and REAVIS and CAMPBELL, JJ.

MEMORANDUM OPINION

Appellant Shannon Luster, appearing *pro se*, filed with the District Clerk of Gray County, in Cause No. 31036 pending in the 223rd District Court of that county, a document entitled Texas Rule of Civil Procedure 306a(5) Motion. The District Clerk forwarded the motion to this court, considering that it could be interpreted as a bona fide attempt to invoke this court's jurisdiction. *See Verburgt v. Dorner*, 959 S.W.2d 615 (Tex. 1997). While the motion did not meet the requirements for a notice of appeal, it contained a notation "Notice of Appeal" at the bottom of each page. The relief requested in the motion was of a nature to be addressed by the trial court, not an appellate court. The motion did not state

the date of the judgment or order appealed from or state clearly that appellant desired to appeal. Tex. R. App. Proc. 25.1(d). Additional information from the District Clerk indicated that no appealable order of the type referred to in the motion had been entered by the trial court in that cause number, and further indicated that the trial court had addressed the relief expressly requested in the motion.

The motion was received by this court on March 11, 2004. By letter dated March 26, 2004, the clerk of this court directed appellant to file, within ten days, a response stating the date of the judgment or order appealed from and containing the information required by Rule 25.1(d) of the Texas Rules of Appellate Procedure. Appellant was advised that failure to respond could result in dismissal of the appeal. See Tex. R. App. P. 42.3. That date has passed and no response has been received.

All parties have had more than ten days' notice that dismissal could result from appellant's failure to comply with the rules and this court's orders. Tex. R. App. Proc. 42.3(c). Accordingly, the appeal is dismissed.

James T. Campbell
Justice