



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-21-00241-CV

MALYIA LEZAMA, INDIVIDUALLY AND AS NEXT FRIEND OF Z.L., APPELLANT

V.

ST. DAVID'S HEALTHCARE SYSTEM, INC., AND DR. VY JANET NGO, APPELLEES

On Appeal from the 345th District Court
Travis County, Texas¹
Trial Court No. D-1-GN-19-008464, Honorable Jessica Mangrum, Presiding

July 28, 2022

MEMORANDUM OPINION

Before QUINN, C.J., and PARKER and DOSS, JJ.

Appellant Malyia Lezama, individually and as next friend of Z.L., seeks appellate review of the trial court's order granting the motion to dismiss filed by appellee, Dr. Vy Janet Ngo, for failure to file an expert report in compliance with section 74.351 of the Texas Civil Practice and Remedies Code. We dismiss the appeal for want of jurisdiction.

¹ Pursuant to the Texas Supreme Court's docket equalization efforts, this case was transferred to this Court from the Third Court of Appeals. See TEX. GOV'T CODE ANN. § 73.001.

This Court generally has jurisdiction to hear an appeal only from a final judgment that includes proper finality language or disposes of all parties and claims in the case. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). The order from which Lezama attempts to appeal grants Ngo's motion to dismiss and dismisses all claims against Ngo. However, nothing in this order addresses Lezama's claims asserted against St. David's Healthcare System, Inc. The clerk's record does not contain an order of severance or other documentation that would make the order granting Ngo's motion to dismiss a final, appealable order.

When specifically authorized by statute, we have jurisdiction to review an interlocutory order. *Stary v. DeBord*, 967 S.W.2d 352, 352–53 (Tex. 1998) (per curiam). Texas Civil Practice and Remedies Code section 51.014(a)(10) authorizes an interlocutory appeal from the granting of a motion to dismiss in a healthcare liability case when the motion challenges the adequacy of the required expert report. TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(10). However, there is no specific statutory basis for an interlocutory appeal from the granting of a motion to dismiss when the motion challenges the failure to file an expert report. See *Milteer v. Park Venture Endoscopy Ctr., LLC*, No. 05-19-00840-CV, 2020 Tex. App. LEXIS 110, at *2 (Tex. App.—Dallas Jan. 8, 2020, pet. denied) (mem. op.); *Fisher v. Med. Ctr. of Plano*, No. 05-14-01441-CV, 2015 Tex. App. LEXIS 18, at *4 (Tex. App.—Dallas Jan. 6, 2015, no pet.) (mem. op.); *Riggs v. Perlman*, No. 01-13-00974-CV, 2014 Tex. App. LEXIS 6400, at *2 (Tex. App.—Houston [1st Dist.] June 12, 2014, no pet.) (mem. op.). While we acknowledge that Lezama contends that her claims against Ngo are not health care liability claims and, thus, not subject to the

expert report requirement, we are unaware of a specific statutory authorization for an interlocutory appeal of such issue.

By letter of July 1, 2022, we notified Lezama that it does not appear that we have jurisdiction over this appeal because there is no final appealable order in the record and we can find no specific statutory basis for an interlocutory appeal. We directed Lezama to show how we have jurisdiction over the appeal by July 20, 2022. Lezama has not complied with this directive to date.

Because Lezama has not presented this Court with a final judgment or other appealable order, we dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

Per Curiam