



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

No. 07-22-00056-CV

ALONZO MAY, APPELLANT

V.

**CORRECT CARE RECOVERY SOLUTIONS, BRIAN THOMAS,
CHRISTOPHER WOODS, JANE SALAZAR, ANDRES FLORES,
EARNEST CANTU, STEADSON FISHER, AND MIKE TERRONES, APPELLEES**

**On Appeal from the 154th District Court
Lamb County, Texas
Trial Court No. DCV-20201-19; Honorable Felix Klein, Presiding**

April 26, 2022

MEMORANDUM OPINION

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

Appellant, Alonzo May, proceeding pro se, appeals from the trial court's *Order Granting Defendants' No Evidence and Traditional Motion for Summary Judgment*. We dismiss the appeal for want of jurisdiction.

By his first amended petition, May sued Appellees, Correct Care Recovery Solutions, Brian Thomas, Christopher Woods, Jane Salazar, Andres Flores, Earnest Cantu, Steadson Fisher, and Mike Terrones for various claims arising from an alleged assault on May at the Texas Civil Commitment Center where May resides. Three of the Appellees, Salazar, Flores, and Terrones, filed a no-evidence and traditional motion for summary judgment. On December 27, 2021, the trial court signed an order granting the motion and dismissing May's claims against Salazar, Flores, and Terrones. May appealed the order.

We have jurisdiction to hear an appeal from a final judgment or from an interlocutory order made immediately appealable by statute. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); *Stary v. DeBord*, 967 S.W.2d 352, 352-53 (Tex. 1998) (per curiam). When there has not been a conventional trial on the merits, an order or judgment is not final for purposes of appeal unless it actually disposes of every pending claim and party or unless it clearly and unequivocally states that it finally disposes of all claims and all parties. *Lehmann*, 39 S.W.3d at 205.

The *Order Granting Defendants' No Evidence and Traditional Motion for Summary Judgment* states that "[t]his is a final judgment," but includes no other language indicating finality or disposing of the remaining claims and parties. In *Lehmann*, the Texas Supreme Court held that it is not enough that the order or judgment merely use the word "final," but instead the intent to dispose of all claims and parties must be unequivocally expressed. *Lehmann*, 39 S.W.3d at 201. Here, it is not.

We, next, consider whether the trial court's summary judgment order actually disposes of all claims and parties. May also sued Correct Care Recovery Solutions, Thomas, Woods, Cantu, and Fisher. The record does not indicate whether the remaining parties were served with process, but none filed an answer. The Texas Supreme Court has recognized that a judgment that expressly disposes of only some defendants is still final for purposes of appeal if the remaining defendants have not been served or filed answers, and nothing in the record reflects that the plaintiff ever expected to obtain service on the remaining defendants. See *M.O. Dental Lab v. Rape*, 139 S.W.3d 671, 674-75 (Tex. 2004) (per curiam).

The record in this case does not reflect that May ceased his attempts to obtain service on the remaining Appellees or discontinued his suit against them. Indeed, May filed a "motion to serve process" prior to the motion for summary judgment, requesting permission to serve Appellees by certified mail in lieu of personal service. The record does not contain an order disposing of the "motion to serve process," nor does it show that May's claims against the remaining Appellees were nonsuited, severed, or otherwise disposed of.

Because the trial court's order does not contain any finality language or dispose of all pending parties and claims, it is not a final judgment. And, we have found no statutory authority permitting its interlocutory appeal. By letter of March 17, 2022, we notified May that it did not appear that a final judgment or appealable order had been issued by the trial court and directed him to show how we have jurisdiction over the appeal by March 31. May has not responded to the court's jurisdictional inquiry to date.

Because May has not presented this court with a final judgment or appealable order, we dismiss his appeal for want of jurisdiction, without prejudice. See TEX. R. APP. P. 42.3(a).

Per Curiam