

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00132-CV

Kevin McBride, Appellant

v.

Uber LLC d/b/a Uber Technologies, Inc., Appellee

**FROM COUNTY COURT AT LAW NO. 1 OF TRAVIS COUNTY
NO. C-1-CV-18-005419, THE HONORABLE TODD T. WONG, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Kevin McBride, proceeding pro se, filed suit against appellee Uber LLC d/b/a Uber Technologies, Inc. (Uber), alleging, among other causes of action, that Uber had breached its contract with McBride, a former Uber driver. In response, Uber filed a motion to compel arbitration under the Federal Arbitration Act (FAA), which the trial court granted. McBride has filed a notice of appeal from the trial court's order.

“Unless a statute authorizes an interlocutory appeal, appellate courts generally only have jurisdiction over final judgments.” *CMH Homes v. Perez*, 340 S.W.3d 444, 447 (Tex. 2011). Section 51.016 of the Civil Practice and Remedies Code, which authorizes appeals in matters subject to the FAA, provides that a party may appeal a judgment or interlocutory order “under the same circumstances that an appeal from a federal district court’s order or decision would be permitted” by the FAA. Tex. Civ. Prac. & Rem. Code § 51.016. Under the FAA, a

party may immediately appeal an order *denying* a motion to compel arbitration. *See* 9 U.S.C. § 16(a). However, an order *granting* a motion to compel arbitration may be immediately appealed only if the order also dismisses the underlying case between the parties; “there can be no immediate appeal of an order compelling arbitration if it stays the underlying case.” *In re Gulf Exploration, LLC*, 289 S.W.3d 836, 839 (Tex. 2009) (citing *Green Tree Financial Corp. v. Randolph*, 531 U.S. 79, 86-87 (2000)).

Here, the trial court’s order compelling arbitration did not dismiss the underlying case. Instead, the trial court stayed the case “during the pendency of the arbitration between the parties” and ordered the parties to report back to the trial court upon the conclusion of the arbitration proceedings. Under these circumstances, the trial court’s order was an unappealable interlocutory order. *See id.*; *see also* 9 U.S.C § 16(b). Accordingly, we dismiss McBride’s appeal for want of jurisdiction.¹ *See* Tex. R. App. P. 42.3(a).

Gisela D. Triana, Justice

Before Justices Goodwin, Baker, and Triana

Dismissed for Want of Jurisdiction

Filed: May 10, 2019

¹ To the extent that McBride’s notice of appeal could be construed as a petition for writ of mandamus, McBride has failed to demonstrate that he is entitled to mandamus relief. *See CMH Homes v. Perez*, 340 S.W.3d 444, 452–54 (Tex. 2011); *In re Gulf Exploration, LLC*, 289 S.W.3d 836, 841–43 (Tex. 2009). Accordingly, we would deny McBride’s petition. *See* Tex. R. App. P. 52.8(a).