

NO. 12-17-00397-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>IN THE MATTER OF THE</i>	§	<i>APPEAL FROM THE 321ST</i>
<i>MARRIAGE OF ALMA HERNANDEZ</i>		
<i>AND JODY MCCREARY AND IN THE</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>INTEREST OF THE L. M.</i>		
	§	<i>SMITH COUNTY, TEXAS</i>

MEMORANDUM OPINION
PER CURIAM

Appellant, Jody McCreary, filed a notice of appeal challenging the denial of his request for the appointment of an attorney and his motion for bench warrant. We dismiss the appeal for want of jurisdiction.

On December 20, 2017, this Court notified McCreary that the information received failed to show the jurisdiction of the Court, i.e., the order being appealed is not appealable. *See* TEX. R. APP. P. 37.2. We informed McCreary that the appeal would be dismissed unless the information was amended on or before January 19, 2018 to show this Court's jurisdiction. *See* TEX. R. APP. P. 42.3. The deadline has passed and McCreary has not shown the jurisdiction of this Court, or otherwise responded to this Court's notice.

Unless one of the sources of our authority specifically authorizes an interlocutory appeal, we only have jurisdiction over an appeal taken from a final judgment. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); *see* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014 (West Supp. 2017) (listing types of interlocutory appeals). Neither the denial of a motion for bench warrant nor the denial of a request for the appointment of an attorney are appealable interlocutory orders or final judgments. *See Ex parte M.B.*, No. 02-17-00070-CV, 2017 WL 2805871, at *1 (Tex. App.—Fort Worth June 29, 2017, no pet.) (mem. op.) (dismissing appeal of denial of motion for bench warrant for want of jurisdiction); *see also Read v. Verboski*, No. 02-15-00153-CV, 2015 WL 3646093, at *1 (Tex. App.—Fort Worth June 11, 2015, no pet.) (mem.

op.) (dismissing appeal of denial of motion to appoint attorney for want of jurisdiction). Because the orders from which McCreary appeals are not appealable interlocutory orders, we *dismiss* the appeal for *want of jurisdiction*.¹

Opinion delivered January 24, 2018.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

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¹ We also note that the appeal is subject to dismissal for failure to “comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.” TEX. R. APP. P. 42.3(c). On December 20, 2017, this Court notified McCreary that his notice of appeal failed to contain the information specifically required by Texas Rules of Appellate Procedure 9.5 and 25.1. *See* TEX. R. APP. P. 9.5 (service of documents), 25.1(e) (service of notice of appeal in civil cases). The notice warned that, unless McCreary filed a proper notice of appeal on or before January 19, 2018, the appeal would be referred to the Court for dismissal. Also on December 20, this Court requested that McCreary file a docketing statement within ten days. *See* TEX. R. APP. P. 32.1. On January 3, the Court notified McCreary that his docketing statement had not been filed and must be filed no later than January 15 or the appeal would be referred to the Court for dismissal. McCreary did not file either a compliant notice of appeal or a docketing statement.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JANUARY 24, 2018

NO. 12-17-00397-CV

**IN THE MATTER OF THE MARRIAGE OF ALMA HERNANDEZ
AND JODY MCCREARY AND IN THE INTEREST OF THE L. M.**

Appeal from the 321st District Court
of Smith County, Texas (Tr.Ct.No. 17-1505-D)

THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this Court that this appeal should be dismissed for want of jurisdiction.

It is therefore ORDERED, ADJUDGED and DECREED by this Court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.