

Lofton v. Tex. Brine Corp., 777 S.W.2d 384, 386 (Tex. 1989) ("This court need not defend its opinions from criticism from courts of appeals; rather they must follow this court's pronouncements.").

The district court made no ruling on Doe's application and issued no findings of fact. In this circumstance, section 33.003(h) instructs that when the district court fails to rule on Doe's application and issue findings of fact by 5 p.m. on the second business day after the date she filed her application, Doe's application is deemed granted. *See* TEX. FAM. CODE § 33.003(h). Apparently unsure about the effect of the trial court's "judgment," Doe immediately appealed it on October 2, 2002, before the expiration of the 5 p.m., second-business-day deadline. Responding on October 3, 2002, the court of appeals correctly dismissed the appeal for lack of jurisdiction. In its opinion, the court of appeals noted: "[The] judgment . . . is merely the [district] court's recitation of its views on the constitutionality of chapter 33, but [it] . . . does not make any ruling either granting or denying Jane Doe's request" The court of appeals also noted that the trial court did not make findings of fact as required by section 33.003(h).

With the court of appeals' opinion in hand and after expiration of "5 p.m. on the second business day after the date the application is filed with the court," Doe made a request that the district court clerk issue a certificate deeming the application granted. *See* TEX. PARENTAL NOTIFICATION R. 2.2(g). Parental Notification Rule 2.2(g) provides that, if the court fails to rule on an application within the prescribed time period, "upon the minor's request, the clerk must instantly issue a certificate to that effect, stating that the application is deemed by statute to be granted." The clerk nevertheless refused to issue the certificate. Doe then sought to mandamus the district court clerk through petitions in the court of appeals and this Court. The court of appeals denied relief and

this Court denied relief, citing *Vondy v. Comm'rs Court of Uvalde County*, 620 S.W.2d 104, 109 (Tex. 1981) (holding that this Court does not have original mandamus jurisdiction over county officials but the district court does).

Along with her mandamus request, Doe re-appealed the “judgment” to the court of appeals. The court of appeals again dismissed her appeal for lack of jurisdiction, but this time without explanation. Doe then filed an appeal with this Court seeking review of the court of appeals’ most recent dismissal.

Regarding the court of appeals’ jurisdiction to hear this appeal, Family Code section 33.004 governs appeals from orders on applications under Family Code section 33.003. Section 33.004(a) provides: “A minor whose application under Section 33.003 is denied may appeal to the court of appeals having jurisdiction over civil matters in the county in which the application was filed.” TEX. FAM. CODE § 33.004(a); *see* TEX. PARENTAL NOTIFICATION R. 3.1 & cmt 1. Thus, under section 33.004(a), it is only the denial of an application that is appealable.

Here, the district court did not rule on Doe’s application within the requisite time period. And because the trial court failed to do so “the application is deemed to be granted . . .” TEX. FAM. CODE § 33.003(h). Thus, the order was not appealable. *See* TEX. FAM. CODE § 33.004. And therefore, the court of appeals properly dismissed Doe’s second appeal for lack of jurisdiction.

Affirmed.

Opinion delivered: October 10, 2002