

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Alonzo Foster Ball, Jr. v. LaVaughn Lewis

No. 04-13-00871-CV (Tex. App.—San Antonio Mar. 7, 2014) · No. No. 04-13-00871-CV · Decided March 7, 2014

SUMMARY

The Fourth Court of Appeals of Texas ordered the pro se appellant to show cause why his appeal should not be dismissed for want of jurisdiction. After the trial court vacated the family violence protective order, the appellate court questioned whether a final, appealable order remained and suspended all other appellate deadlines.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez
JURISDICTION	Texas
DECIDED	March 7, 2014
DOCKET	No. 04-13-00871-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant filed an interlocutory appeal challenging the trial court's denial of his wife's motion to dismiss a family-violence protective order. The court of appeals issued an order requiring appellant to show cause why the appeal should not be dismissed for lack of appellate jurisdiction after the trial court vacated the protective order.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and whether a final, appealable order exists.
PRECEDENTIAL VALUE	published
PARTIES	Alonzo Foster Ball, Jr. v. LaVaughn Lewis

TOPICS

[appellate jurisdiction](#) [final judgment rule](#) [appellate procedure](#) [family law procedure](#) [domestic violence](#)

PRACTICE AREAS

[appellate procedure](#) [family law](#) [domestic violence](#)

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction to review the challenged order after the trial court vacated the family-violence protective order.
2. Whether the appeal should be dismissed for want of jurisdiction because no final, appealable order remained.

HOLDINGS

1. The court of appeals questioned whether it had jurisdiction because, after the trial court vacated the protective order, there did not appear to be a final, appealable order.

KEY QUOTATIONS

“Our appellate jurisdiction is limited to review of final, appealable orders.”

“If Appellant does not timely show cause why this court has jurisdiction over this appeal, the appeal will be dismissed for want of jurisdiction.”

FACTUAL BACKGROUND

The underlying matter involved a family-violence protective order and the trial court's denial of the appellee's motion to dismiss that order. After the appeal was filed, the trial court held a hearing and vacated the protective order. Because the order was vacated, the court of appeals concluded that there did not appear to be a final, appealable order for it to review.

PROCEDURAL HISTORY

The trial court denied LaVaughn Lewis's motion to dismiss a family-violence protective order. Alonzo Foster Ball, Jr. filed a notice of appeal and an affidavit of indigence. The court of appeals abated the appeal and remanded the matter for a determination of indigence and whether the appeal was frivolous. After a February 24, 2014 hearing, the trial court vacated the protective order, prompting the appellate court to question whether any final, appealable order remained and to order Ball to show cause.

DISPOSITION

other

REMAND INSTRUCTIONS

Appellant was ordered to show cause in writing within ten days why the appeal should not be dismissed for want of jurisdiction. All other appellate deadlines were suspended pending further order of the court.

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001)

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas March 7, 2014 No. 04-13-00871-CV Alonzo Foster BALL, Jr., Appellant v. LaVaughn LEWIS, Appellee From the 224th Judicial District Court, Bexar County, Texas Trial Court No. 2013-CI-05112 Honorable Janet P. Littlejohn, Judge Presiding ORDER Appellant Alonzo Foster Ball Jr., acting pro se, filed a notice of appeal. He complains that the trial court improperly denied his wife's motion to dismiss a family violence protective order.

See TEX. FAM. CODE ANN. § 85.001 (West 2014). After he filed his notice of appeal, he also filed an affidavit of indigence. On January 22, 2014, we abated this cause and remanded it to the trial court to determine whether Appellant is indigent and his appeal is frivolous.

In response, the trial court held a hearing on February 24, 2014, and vacated its earlier protective order. Thus, in this case, there does not appear to be a final, appealable order. Our appellate jurisdiction is limited to review of final, appealable orders. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001) (noting that generally "an appeal may be taken only from a final judgment").

We ORDER Appellant Alonzo Foster Ball Jr. to show cause in writing within TEN DAYS of the date of this order why this appeal should not be dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a); *Lehmann*, 39 S.W.3d at 195. If Appellant does not timely show cause why this court has jurisdiction over this appeal, the appeal will be dismissed for want of jurisdiction.

See TEX. R. APP. P. 42.3(a); *Lehmann*, 39 S.W.3d at 195. All other appellate deadlines are SUSPENDED pending further order of this court. _____

Patricia O. Alvarez, Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 7th day of March, 2014.

_____ Keith E. Hottle Clerk of Court