

# SUPREME COURT OF KENTUCKY

## Fox Trot Properties, LLC v. Wright

314 S.W.3d 286 (Ky. 2010) · No. 2009-SC-000329-MR · Decided June 17, 2010

### SUMMARY

The Supreme Court of Kentucky affirmed the denial of Fox Trot Properties, LLC's petition for a writ of prohibition. The court held that the Letcher Circuit Court had jurisdiction under CR 62.01 and KRS 454.080 to stay enforcement of its own judgment while considering DLX, Inc.'s motion for relief under CR 60. The court declined to address the merits or timeliness of the underlying motion because those issues had not yet been decided by the trial court.

### CASE DETAILS

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| COURT                 | Supreme Court of Kentucky                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Justice Noble                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| JURISDICTION          | Kentucky                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DECIDED               | June 17, 2010                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DOCKET                | 2009-SC-000329-MR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Fox Trot Properties appealed as a matter of right from the Kentucky Court of Appeals' denial of its petition for a writ of prohibition challenging the Letcher Circuit Court's temporary stay of enforcement of its own judgment.                                                                                                                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | A writ of prohibition is extraordinary relief. It may issue when a lower court is acting outside its jurisdiction and there is no adequate remedy through an intermediate court, or when the lower court is acting erroneously within its jurisdiction, great and irreparable harm would result, and there is no adequate remedy by appeal. Issues concerning the timeliness of a CR 60.02(f) motion are subject to limited jurisdictional review, but no review was available because the trial court had not yet ruled on the motion. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| PARTIES               | Fox Trot Properties, LLC v. Hon. Samuel T. Wright, III, Judge, Letcher Circuit Court, DLX, Inc.                                                                                                                                                                                                                                                                                                                                                                                                                                         |

## TOPICS

writ of certiorari

appellate procedure

civil procedure

remedies

real estate

## PRACTICE AREAS

civil procedure

appellate procedure

remedies

real estate

## QUESTIONS PRESENTED

1. Whether the Letcher Circuit Court had jurisdiction to temporarily stay enforcement of its own judgment while considering DLX's motion for relief under CR 60.
2. Whether Fox Trot was entitled to a writ of prohibition based on its challenges to the merits or timeliness of DLX's unresolved CR 60 motion.

## HOLDINGS

1. The court that rendered a judgment has jurisdiction under CR 62.01 to stay execution or other proceedings to enforce that judgment while a motion for relief under CR 60 is pending, even when enforcement concerns real property located in another county.
2. A writ of prohibition could not be used to decide the merits or timeliness of a CR 60 motion that the trial court had not yet resolved.

## KEY QUOTATIONS

*“In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for relief from a judgment or order made pursuant to Rule 60.”* (314 S.W.3d at 288)

*“In fact, the only court with jurisdiction to stay enforcement of a judgment is the court which rendered that judgment—in this case, the Letcher Circuit Court.”* (314 S.W.3d at 288)

## FACTUAL BACKGROUND

In 1995, the Letcher Circuit Court entered a \$312,234.40 default judgment against DLX, Inc., which Fox Trot later acquired by assignment. DLX's principal asset available to satisfy the judgment was an 82-acre tract of land in Estill County, but extensive litigation involving Fox Trot's efforts to claim ownership, cloud title, and force a sale allegedly prevented the property from being sold. DLX moved for relief from the judgment under CR 60, asserting that post-judgment interest should not accrue during the period Fox Trot prevented payment, and the Letcher Circuit Court stayed enforcement pending briefing and resolution of that motion.

## PROCEDURAL HISTORY

The Letcher Circuit Court entered a 1995 default judgment against DLX, Inc. for \$312,234.40. After the judgment was assigned to Fox Trot, DLX moved under CR 60 for relief from the judgment, and the Letcher Circuit Court temporarily stayed enforcement while the motion was briefed and decided. The Court of Appeals denied Fox Trot's writ petition, and the Supreme Court of Kentucky affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Kentucky Employers Mut. Ins. v. Coleman, 236 S.W.3d 9 (Ky. 2007)
- Bender v. Eaton, 343 S.W.2d 799 (Ky. 1961)
- Hoskins v. Maricle, 150 S.W.3d 1 (Ky. 2004)
- McConnell v. Raive, 8 Ky. L. Rptr. 343, 1 S.W. 582 (1886)
- Neeters v. Clements, 75 Ky. (12 Bush) 359 (1876)
- Davis v. Davis, 73 Ky. (10 Bush) 274 (1874)
- Kelly v. Kelly, 63 Ky. (2 Duv.) 363 (1866)
- Chesapeake, Ohio & Sw. R.R. Co. v. Reasor, 84 Ky. 369, 1 S.W. 599, 8 Ky. L. Rptr. 374 (1886)
- Gross v. Commonwealth, 648 S.W.2d 853 (Ky. 1983)
- Asset Acceptance v. Moberly, 241 S.W.3d 329 (Ky. 2007)