

COURT OF APPEALS OF TEXAS, SECOND APPELLATE DISTRICT, FORT WORTH

Jon Erik Rocha v. NASA Federal Credit Union

No. 02-21-00416-CV (Tex. App.—Fort Worth June 16, 2022) (mem. op.) · No. No. 02-21-00416-CV · Decided June 16, 2022

SUMMARY

The Texas Court of Appeals, Second Appellate District, affirmed a turnover and receivership order entered to enforce a judgment against Jon Erik Rocha in favor of NASA Federal Credit Union. The court rejected Rocha’s jurisdictional and evidentiary challenges, held that he could not collaterally attack the unappealed underlying breach-of-contract judgment, and concluded that the evidence supported appointment of a receiver. The court also held that any failure to file findings of fact and conclusions of law was harmless.

CASE DETAILS

COURT	Court of Appeals of Texas, Second Appellate District, Fort Worth
WRITING FOR THE COURT	Justice Mike Wallach; Chief Justice Sudderth; Justice Birdwell; Justice Wallach
JURISDICTION	Texas
DECIDED	June 16, 2022
DOCKET	No. 02-21-00416-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rocha appealed the trial court's turnover and receivership order entered to enforce an unappealed summary judgment awarding NASA Federal Credit Union damages for breach of contract.
STANDARD OF REVIEW	A trial court's rendition of a turnover order is reviewed for abuse of discretion. The appellate court considers whether the trial court acted without reference to guiding rules or principles and whether any evidence supports the order.
PRECEDENTIAL VALUE	Published Texas Court of Appeals memorandum opinion; no separate reporter citation appears in the opinion text.
PARTIES	Jon Erik Rocha v. NASA Federal Credit Union

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Rocha could collaterally attack the validity and evidentiary support of the unappealed underlying judgment in an appeal from a turnover order.
2. Whether the trial court had jurisdiction and authority to issue the turnover order and appoint a receiver.
3. Whether evidence supported the finding that Rocha possessed nonexempt property and that a turnover order and receiver were authorized.
4. Whether the trial court erred by treating attorney argument as non-evidence, rejecting Rocha's purported payment, and overruling his hearsay objections.
5. Whether the trial court's failure to file findings of fact and conclusions of law constituted harmful error.
6. Whether the trial judge's alleged partiality or violation of fiduciary duties warranted reversal.

HOLDINGS

1. Insufficient evidence supporting the underlying judgment would constitute trial-court error, not a jurisdictional defect rendering the judgment void. Because Rocha did not appeal the underlying judgment, he could not collaterally attack it in the turnover proceeding.
2. The trial court had authority to enforce its judgment and to issue a turnover order and appoint a receiver under Texas law.
3. The trial court did not abuse its discretion because evidence showed that Rocha possessed a nonexempt Bank of America account, and the turnover statute authorized appointment of a receiver once the need for turnover relief was established.
4. The trial court properly rejected Rocha's self-created bookkeeping coupon as invalid payment, and hearsay rules did not apply to the Credit Union attorney's arguments because attorney argument is not evidence.
5. Any failure to file findings of fact and conclusions of law was harmless because Rocha was able to present his appellate challenge to the sufficiency of the evidence and did not show that the omission prevented him from properly presenting his case.
6. Rocha's allegations that the trial judge violated official duties or acted for the court's benefit did not establish an abuse of discretion or legally sufficient judicial bias.

KEY QUOTATIONS

“However, insufficient evidence does not make a judgment void.” (3)

“A trial court has the authority to enforce its judgments.” (4)

“However, as Rocha recognizes elsewhere in his brief, an attorney’s arguments are not evidence.” (8)

“Any error in failing to file findings and conclusions was harmless.” (9)

FACTUAL BACKGROUND

NASA Federal Credit Union sued Rocha after he failed to make monthly loan payments and obtained an unappealed summary judgment for \$50,554.27, plus interest and attorney’s fees. The Credit Union later sought enforcement through a turnover order and receivership, alleging that Rocha possessed nonexempt assets, including a Bank of America account. At the turnover hearing, Rocha acknowledged that he had the account and that it had previously been garnished; the trial court took judicial notice of the garnishment order. Rocha also offered a self-created bookkeeping document as purported payment, but the trial court rejected it.

PROCEDURAL HISTORY

The Credit Union obtained summary judgment against Rocha on September 22, 2020, for \$50,554.27 in damages, plus interest and attorney’s fees. Rocha did not appeal that judgment. In November 2021, the Credit Union sought a turnover order and appointment of a receiver under Texas Civil Practice and Remedies Code section 31.002. After a hearing at which Rocha acknowledged having a Bank of America account, the trial court granted the application, appointed a receiver, and ordered Rocha to turn over financial records. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *Beaumont Bank, N.A. v. Buller*, 806 S.W.2d 223, 226 (Tex. 1991)
- *Low v. Henry*, 221 S.W.3d 609, 614 (Tex. 2007)
- *Cire v. Cummings*, 134 S.W.3d 835, 838–39 (Tex. 2004)
- *Walker v. Walker*, 642 S.W.3d 196, 212 (Tex. App.—El Paso 2021, no pet.)
- *Reiss v. Reiss*, 118 S.W.3d 439, 443 (Tex. 2003)
- *In re A.E.*, No. 02-19-00173-CV, 2019 WL 4784419, at *3 (Tex. App.—Fort Worth Oct. 1, 2019, pet. denied) (mem. op.)
- *Hagen v. Hagen*, 282 S.W.3d 899, 905 (Tex. 2009)
- *Bierwirth v. AH4R I TX, LLC*, No. 01-13-00459-CV, 2014 WL 5500487, at *3 (Tex. App.—Houston [1st Dist.] Oct. 30, 2014, no pet.) (mem. op.)
- *Robison v. Watson*, No. 04-20-00138-CV, 2021 WL 2117936, at *5 (Tex. App.—San Antonio May 26, 2021, no pet.) (mem. op.)
- *Heckert v. Heckert*, No. 02-16-00213-CV, 2017 WL 5184840, at *2 (Tex. App.—Fort Worth Nov. 9, 2017, no pet.) (mem. op.)
- *In re Pease*, No. 09-54754-C, 2010 WL 986415, at *1 (Bankr. W.D. Tex. Mar. 15, 2010) (order)

- *Miller v. Exelon*, No. 19-CV-0231, 2019 WL 952273, at *1, *3 (E.D. Pa. Feb. 26, 2019) (mem. op.)
- *Aerotek, Inc. v. Boyd*, 624 S.W.3d 199, 208 (Tex. 2021)
- *Graham Cent. Station, Inc. v. Pena*, 442 S.W.3d 261, 263 (Tex. 2014)
- *York v. Cooper-York*, No. 02-20-00356-CV, 2021 WL 2753527, at *3 (Tex. App.—Fort Worth July 1, 2021, pet. denied) (mem. op.)
- *In re C.A.B.*, 289 S.W.3d 874, 881 (Tex. App.—Houston [14th Dist.] 2009, no pet.)
- *Isaac v. Burnside*, 616 S.W.3d 609, 614 (Tex. App.—Houston [14th Dist.] 2020, pet. denied)
- *Tolpo v. Denny*, No. 02-15-00231-CV, 2016 WL 1601068, at *4 (Tex. App.—Fort Worth Apr. 21, 2016, no pet.) (mem. op.)
- *Liteky v. United States*, 510 U.S. 540, 555 (1994)
- *De Los Reyes v. Maris*, No. 02-21-00022-CV, 2021 WL 5227179, at *3–4 (Tex. App.—Fort Worth Nov. 10, 2021, no pet.) (mem. op.)