

COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

Marcus J. Thirstrup v. Matthew Twombly

Thirstrup v. Twombly, No. 09-24-00139-CV, 2026 Tex. App. LEXIS [not provided] (Tex. App.—Beaumont Apr. 9, 2026) · No. 09-24-00139-CV · Decided April 9, 2026

SUMMARY

The Ninth Court of Appeals of Texas affirmed a county court judgment granting possession to the landlord in a forcible-detainer appeal. The court held that the tenant’s notice of appeal was timely under the applicable appellate rules and that the trial court did not abuse its discretion by denying an emergency motion for continuance filed shortly before trial. The court also held that the tenant failed to preserve his due-process challenge to the trial court’s continuance procedures.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	Kent Chambers; Johnson; Wright
JURISDICTION	Texas Court of Appeals, Ninth District at Beaumont
DECIDED	April 9, 2026
DOCKET	09-24-00139-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Thirstrup appealed a default eviction judgment from the justice court to the County Court at Law No. 6 and then appealed that court's judgment affirming the eviction after denying his emergency motion for a continuance.
STANDARD OF REVIEW	A denial of a motion for continuance is reviewed for a clear abuse of discretion. An abuse of discretion occurs when the trial court reaches a decision so arbitrary and unreasonable as to amount to clear and prejudicial error of law. Preservation of error requires that a complaint be raised in the trial court and that the complaining party obtain a ruling.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is identified as published in the supplied metadata.
PARTIES	Marcus J. Thirstrup v. Matthew Twombly

TOPICS

eviction

landlord tenant

appellate jurisdiction

appellate procedure

civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

landlord tenant

eviction

constitutional law

QUESTIONS PRESENTED

1. Whether the notice of appeal was timely and properly invoked the appellate court's jurisdiction.
2. Whether the trial court clearly abused its discretion by denying Thirstrup's emergency motion for a continuance.
3. Whether the trial court's docket-control-order requirements for continuance motions violated Thirstrup's due process rights, and whether that complaint was preserved for appellate review.

HOLDINGS

1. The notice of appeal was timely and properly invoked the court of appeals' jurisdiction because it was filed within the fifteen-day period permitted by Texas Rule of Appellate Procedure 26.3, and an extension motion was necessarily implied despite the absence of a separate compliant motion.
2. The trial court did not abuse its discretion by denying Thirstrup's emergency motion for continuance.
3. Thirstrup's due process challenge was not preserved because he did not raise it in the trial court and obtain a ruling on that issue.

KEY QUOTATIONS

“An extension motion is necessarily implied if a notice of appeal is filed within fifteen days after it was due.”
(5)

“An abuse of discretion occurs when the trial court “‘reaches a decision so arbitrary and unreasonable as to amount to a clear and prejudicial error of law.’” (7)

“Thirstrup had the burden to establish sufficient cause for a continuance, and we cannot say the trial court abused its discretion in denying the motion when the record shows that Thirstrup was aware at least ten days before trial that he might be incapacitated and need the assistance of counsel.” (11)

FACTUAL BACKGROUND

Twombly, the landlord, filed a forcible-detainer action seeking possession of leased premises from Thirstrup, the tenant. After the justice court entered a default eviction judgment, the case was set for trial in the county court on March 1, 2024. Forty minutes before trial, Thirstrup filed an emergency motion for continuance based on a severe medical condition and his asserted inability to attend or adequately represent himself, but he did not contact the court or appear when the case was called. The record showed that he had been aware for at least ten days before trial that he might need a continuance and had attempted to contact opposing counsel about one.

PROCEDURAL HISTORY

Twombly obtained a default judgment of eviction in the Justice of the Peace Court, Precinct 3, Montgomery County. Thirstrup appealed to the County Court at Law No. 6, which denied his emergency motion for a continuance filed shortly before trial and entered judgment granting Twombly possession. Thirstrup filed a notice of appeal, and the Court of Appeals denied Twombly's jurisdictional challenge, reached the merits, overruled Thirstrup's issues, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Johnston v. McKinney Am., Inc., 9 S.W.3d 271, 277 (Tex. App.—Houston [14th Dist.] 1999, pet. denied)
- Christus Health Se. Tex. v. Broussard, 267 S.W.3d 531, 533 (Tex. App.—Beaumont 2008, no pet.)
- Verburgt v. Dorner, 959 S.W.2d 615, 617 (Tex. 1997)
- In re Estate of Wheatfall, No. 24-0778, 2026 Tex. App. LEXIS 121, at *12 n.3 (Tex. Feb. 13, 2026)
- BMC Software Belgium, N.V. v. Marchand, 83 S.W.3d 789, 800 (Tex. 2002)
- Snider v. Stanley, 44 S.W.3d 713, 718 (Tex. App.—Beaumont 2001, pet. denied)
- Johnson v. Fourth Court of Appeals, 700 S.W.2d 916, 917 (Tex. 1985)
- Serrano v. Ryan's Crossing Apartments, 241 S.W.3d 560, 564 (Tex. App.—El Paso 2007, pet. denied)
- Saldivar v. Centric Operations, LLC, No. 09-24-00022-CV, 2025 Tex. App. LEXIS 6972, at *7 n.2 (Tex. App.—Beaumont Aug. 20, 2025, no pet.)
- Hays St. Bridge Restoration Group v. City of San Antonio, 570 S.W.3d 697, 702 n.15 (Tex. 2019)
- Baylor Scott & White v. Project Rose MSO, LLC, 633 S.W.3d 263, 291 (Tex. App.—Tyler 2021, pet. denied)
- In re Chaudhary, No. 01-25-00865-CV, 2026 Tex. App. LEXIS 1063, at *2-4 (Tex. App.—Houston [1st Dist.] Feb. 4, 2026, no pet.)
- Mock v. St. David's Healthcare P'ship, LP LLP, No. 03-22-00708-CV, 2025 Tex. App. LEXIS 8614, at *13-14 (Tex. App.—Austin Nov. 7, 2025, no pet.)
- Jackson v. Diamond D Realty, No. 06-23-00028-CV, 2023 Tex. App. LEXIS 6282, at *14 (Tex. App.—Texarkana Aug. 17, 2023, no pet.)
- Howard v. Underwood FLP, Ltd., No. 02-22-00286-CV, 2023 Tex. App. LEXIS 3619, at *9 n.3 (Tex. App.—Fort Worth May 25, 2023, no pet.)
- In re Cook Compression LLC, No. 04-20-00517-CV, 2020 Tex. App. LEXIS 9214, at *8-9 (Tex. App.—San Antonio Nov. 25, 2020, no pet.)
- In re Battles, No. 09-23-00219-CR, 2023 Tex. App. LEXIS 5258, at *3 (Tex. App.—Beaumont July 19, 2023, no pet.) (orig. proceeding) (mem. op.)
- In re Thibodeaux, No. 09-23-00217-CR, 2023 Tex. App. LEXIS 6234, at *2 (Tex. App.—Beaumont Aug. 16, 2023, no pet.)
- Childress v. Palo Pinto County, No. 14-19-00783-CV, 2021 Tex. App. LEXIS 7991, at *3-4 (Tex. App.—Houston [14th Dist.] Sept. 30, 2021, no pet.)

- In re L.M.I., 119 S.W.3d 707, 711 (Tex. 2003)

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