

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

Robert Corley v. Timothy Corley, Jason Corley and Century Oaks
Land LLC

No. 04-21-00181-CV (Tex. App.—San Antonio June 30, 2021) (per curiam) (mem. op.) · No. 04-21-00181-CV ·
Decided June 30, 2021

SUMMARY

The Fourth Court of Appeals of Texas denied Robert Corley’s petition for permissive appeal from an interlocutory summary-judgment order and dismissed the appeal for want of jurisdiction. The court explained that permissive appeals are discretionary and cited Texas Civil Practice and Remedies Code section 51.014(d) and Texas Rule of Appellate Procedure 28.3.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Rebeca C. Martinez, Chief Justice; Patricia O. Alvarez, Justice; Luz Elena D. Chapa, Justice
JURISDICTION	Texas
DECIDED	June 30, 2021
DOCKET	04-21-00181-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for permissive interlocutory appeal from an order denying appellant's partial motion for summary judgment and granting appellees' motion for summary judgment.
STANDARD OF REVIEW	The court of appeals has discretion to accept or deny a permissive interlocutory appeal even when the statutory threshold requirements are satisfied.
PRECEDENTIAL VALUE	Memorandum opinion; no reporter citation appears in the source.
PARTIES	Robert Corley v. Timothy Corley, Jason Corley, Century Oaks Land LLC

TOPICS

interlocutory appeal

appellate jurisdiction

summary judgment

appellate procedure

civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the court of appeals should accept Robert Corley's petition for a permissive interlocutory appeal.
2. Whether the appeal should be dismissed for lack of jurisdiction after the petition for permissive appeal was denied.

HOLDINGS

1. A party seeking a permissive appeal from an otherwise nonappealable interlocutory order must establish that the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal may materially advance the ultimate termination of the litigation; the court of appeals nevertheless has discretion to deny the petition.
2. When the court of appeals denies a petition for permissive appeal, the interlocutory appeal is dismissed for lack of jurisdiction.

KEY QUOTATIONS

“To be entitled to a permissive appeal from an interlocutory order that would not otherwise be appealable, the requesting party must establish that (1) the order to be appealed involves a “controlling question of law as to which there is a substantial ground for difference of opinion” and (2) an immediate appeal from the order “may materially advance the ultimate termination of the litigation.””

“Texas courts of appeals have discretion to accept or deny permissive interlocutory appeals”

FACTUAL BACKGROUND

The appeal arose from an interlocutory summary-judgment order in litigation between Robert Corley and the appellees. The order denied Corley's partial motion for summary judgment and granted the appellees' motion for summary judgment. The opinion did not reach the merits of the underlying summary-judgment rulings.

PROCEDURAL HISTORY

The Bexar County district court entered an interlocutory order denying Robert Corley's partial motion for summary judgment and granting summary judgment for Timothy Corley, Jason Corley, and Century Oaks Land LLC. Corley petitioned the Fourth Court of Appeals for permission to appeal. The court denied the petition and dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Sabre Travel Int'l, Ltd. v. Deutsche Lufthansa AG, 567 S.W.3d 725, 732 (Tex. 2019)
- Sabre Travel Int'l, Ltd. v. Deutsche Lufthansa AG, 567 S.W.3d 725, 733 (Tex. 2019)
- Durairaj v. Durairaj, No. 04-19-00271-CV, 2019 WL 3937275, at *1 (Tex. App.—San Antonio Aug. 21, 2019, no pet.) (mem. op.) (per curiam)

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