

# COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

## Ernest Admoren-Nweke v. State

No. 01-19-01001-CR (Tex. App.—Houston [1st Dist.] Dec. 3, 2020) (mem. op.) · No. No. 01-19-01001-CR ·  
Decided December 3, 2020

### SUMMARY

The First Court of Appeals of Texas dismissed Ernest Admoren-Nweke’s appeal from a bail bond forfeiture judgment for lack of jurisdiction. The court held that the judgment was for less than the statutory \$20 threshold, exclusive of costs, and that the timely notice of appeal meant the case could not proceed as a restricted appeal. The court also denied pending motions.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals for the First District of Texas                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Richard Hightower; Keyes; Hightower; Countiss                                                                                                                                                                                                                         |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                 |
| DECIDED               | December 3, 2020                                                                                                                                                                                                                                                      |
| DOCKET                | No. 01-19-01001-CR                                                                                                                                                                                                                                                    |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Appellant challenged a final judgment in a bail bond forfeiture proceeding. The court considered whether it had jurisdiction over the appeal under Texas Code of Criminal Procedure articles 44.42 and 44.43 and whether the appeal qualified as a restricted appeal. |
| STANDARD OF REVIEW    | The court reviewed its appellate jurisdiction de novo, applying the jurisdictional limits imposed by statute and the requirements for a restricted appeal under the Texas Rules of Appellate Procedure.                                                               |
| PRECEDENTIAL VALUE    | Nonprecedential memorandum opinion; designated do not publish under Texas Rule of Appellate Procedure 47.2(b).                                                                                                                                                        |
| PARTIES               | Ernest Admoren-Nweke v. The State of Texas                                                                                                                                                                                                                            |

### TOPICS

[appellate jurisdiction](#)[appellate procedure](#)[final judgment rule](#)[criminal procedure](#)

### PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction over an appeal from a bond-forfeiture judgment for less than \$20 exclusive of costs under Texas Code of Criminal Procedure article 44.42.
2. Whether appellant could pursue the matter as a restricted appeal under article 44.43 and Texas Rule of Appellate Procedure 30 despite filing his notice of appeal within the ordinary thirty-day deadline.
3. Whether constitutional challenges raised for the first time in appellant's reply brief should be considered.

## HOLDINGS

1. The Court of Appeals lacked jurisdiction over the ordinary appeal because the final bond-forfeiture judgment was for less than \$20 exclusive of costs.
2. Appellant could not proceed by restricted appeal because he filed his notice of appeal within the time permitted for an ordinary appeal under Rule 26.1(a).
3. The court did not consider appellant's as-applied constitutional challenges because they were raised for the first time in his reply brief.

## KEY QUOTATIONS

“Therefore, we hold that this Court does not have jurisdiction over this appeal.” (9)

“We dismiss the appeal for lack of jurisdiction.” (10)

## FACTUAL BACKGROUND

Admoren-Nweke was indicted for aggravated sexual assault and released on a \$45,000 bond secured by International Fidelity Insurance Company. He failed to appear on October 14, 2019, and the trial court signed a judgment nisi the next day; he was arrested and returned to custody on October 15. The trial court later remitted the full bond but assessed court costs and interest, resulting in a final judgment for zero interest and court costs only.

## PROCEDURAL HISTORY

Admoren-Nweke was released on a \$45,000 bail bond after being indicted for aggravated sexual assault. After he failed to appear, the trial court signed a judgment nisi and later entered a final judgment remitting the bond but assessing court costs and interest against him and the surety. Admoren-Nweke filed his notice of appeal within thirty days of the final judgment and later amended the notice to invoke articles 44.43 and 44.44. The Court of Appeals dismissed because the judgment was below the statutory \$20 threshold and the timely notice of appeal prevented treatment of the case as a restricted appeal.

## DISPOSITION

dismissed

## CASES CITED

- Alvarez v. State, 861 S.W.2d 878, 880-81 (Tex. Crim. App. 1992)
- Safety Nat'l Cas. Corp. v. State, 273 S.W.3d 157, 163 (Tex. Crim. App. 2008)
- Hernden v. State, 505 S.W.2d 546, 548 (Tex. Crim. App. 1974)
- Skinner v. State, 305 S.W.3d 593, 593 (Tex. Crim. App. 2010)
- Olowosuko v. State, 826 S.W.2d 940, 941 (Tex. Crim. App. 1992)
- Ex parte E.H., 602 S.W.3d 486, 495 (Tex. 2020)
- Alexander v. Lynda's Boutique, 134 S.W.3d 845, 849 (Tex. 2004)
- International Fidelity Insurance Co. v. State, No. 10-03-178-CR, 2003 WL 22976423, at \*1 (Tex. App.—Waco Dec. 17, 2003, no pet.) (mem. op., not designated for publication)
- Casper v. State, 127 S.W.3d 370, 371 (Tex. App.—Beaumont 2004, pet. ref'd)
- Charles v. Crown Asset Mgmt., LLC, No. 05-18-01139-CV, 2019 WL 6317867, at \*2 n.1 (Tex. App.—Dallas Nov. 26, 2019, no pet.) (mem. op.)
- Human Biostar, Inc. v. Celltex Therapeutics Corp., 514 S.W.3d 844, 847 (Tex. App.—Houston [14th Dist.] 2017, pet. denied)
- Barrett v. Westover Park Cmty. Ass'n, Inc., No. 01-10-01112-CV, 2012 WL 682342, at \*2 n.1 (Tex. App.—Houston [1st Dist.] Mar. 1, 2012, no pet.) (mem. op.)
- Campbell v. Campbell, No. 07-02-0436-CV, 2003 WL 22681800, at \*2 (Tex. App.—Amarillo Nov. 13, 2003, no pet.) (mem. op.)
- Barrios v. State, 27 S.W.3d 313, 321-22 (Tex. App.—Houston [1st Dist.] 2000, pet. ref'd)