

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

The Roman Catholic Bishop of San Bernardino, and Bishop Gerald R. Barnes v. John Doe

Roman Catholic Bishop of San Bernardino · No. 04-19-00153-CV · Decided May 31, 2019

SUMMARY

The Fourth Court of Appeals of Texas, San Antonio, granted appellants’ emergency motion to stay all discovery in the underlying suit pending resolution of their interlocutory appeal from the denial of a special appearance. The court denied as moot an earlier motion to stay discovery and ordered that the order be served on the trial court and all counsel.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
JURISDICTION	Texas
DECIDED	May 31, 2019
DOCKET	04-19-00153-CV
DISPOSITION	other
PROCEDURAL POSTURE	Accelerated interlocutory appeal from an order denying appellants' special appearance. During the appeal, appellants sought emergency relief staying discovery in the trial court.
PRECEDENTIAL VALUE	Published per curiam appellate order
PARTIES	The Roman Catholic Bishop of San Bernardino, Bishop Gerald R. Barnes v. John Doe

TOPICS

- discovery dispute
- interlocutory appeal
- appellate procedure
- civil procedure
- personal jurisdiction

PRACTICE AREAS

- civil procedure
- appellate procedure
- personal jurisdiction

QUESTIONS PRESENTED

- Whether the appellate court should stay discovery in the trial court pending resolution of the interlocutory appeal from the denial of appellants' special appearance.

2. Whether appellants' earlier motion to stay discovery was moot after the court granted their subsequent emergency motion seeking the same relief.

HOLDINGS

1. When an interlocutory appeal from the denial of a special appearance is pending, the appellate court may stay discovery when necessary to preserve the parties' rights until disposition of the appeal; here, all discovery was stayed pending resolution of the appeal.
2. The earlier motion to stay discovery was moot because the court granted the later emergency motion requesting the same relief.

KEY QUOTATIONS

“We GRANT appellants’ May 30, 2019 motion for emergency relief and ORDER all discovery in the trial court stayed pending resolution of the appeal.”

“The granting of appellants’ more recent motion renders their original motion moot.”

FACTUAL BACKGROUND

Appellants were defending an underlying suit in which the trial court had denied their special appearance. During the interlocutory appeal, appellee served deposition notices and sought to compel the depositions, prompting appellants to request an appellate stay of discovery.

PROCEDURAL HISTORY

The Bexar County district court denied appellants' special appearance, and appellants perfected an accelerated appeal. While the appeal was pending, appellee served deposition notices and moved to compel the depositions. The appellate court granted appellants' emergency motion, stayed all discovery pending resolution of the appeal, and denied as moot appellants' earlier motion seeking the same relief.

DISPOSITION

other

CASES CITED

- Oryx Capital Int’l, Inc. v. Sage Apartments, L.L.C., 167 S.W.3d 432, 437 (Tex. App.—San Antonio 2005, no pet.)

OPINION

the Roman Catholic Bishop of San Bernardino, and Bishop Gerald R. Barnes v. John Doe
PER CURIAM.

Fourth Court of Appeals San Antonio, Texas May 31, 2019 No. 04-19-00153-CV THE ROMAN CATHOLIC BISHOP OF SAN BERNARDINO, and Bishop Gerald R. Barnes, Appellants v. John DOE, Appellee From the 131st Judicial District Court, Bexar County, Texas Trial Court No. 2015-

ORDER

This is an accelerated appeal from a trial court's order denying appellants' special appearance. On May 28, 2019, appellants filed a motion asking this court to stay discovery in the underlying suit pending resolution of the appeal. According to appellants, appellee served deposition notices on appellants, prompting appellants to request from this court a discovery stay pursuant to Rule 29.3 of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 29.3 (stating that when appeal from interlocutory order is perfected, appellate court may make any temporary orders necessary to preserve parties' rights until disposition of appeal). Before this court ruled on appellants' May 28, 2019 motion for stay, appellee filed in the trial court, on May 30, 2019, a motion to compel the previously requested depositions. In response, appellants filed a motion for emergency relief in this court, seeking an immediate order staying all discovery in the trial court pending resolution of the appeal. We GRANT appellants' May 30, 2019 motion for emergency relief and ORDER all discovery in the trial court stayed pending resolution of the appeal. See *Oryx Capital Int'l, Inc. v. Sage Apartments, L.L.C.*, 167 S.W.3d 432, 437 (Tex. App.—San Antonio 2005, no pet.) (noting prior order staying all discovery in trial court pending resolution of appeal from denial of special appearance); see also TEX. R. APP. P. 10.3(a)(3) (stating court should not hear or determine motion until 10 days after motion was filed unless motion is emergency); id. R. 29.3. The granting of appellants' more recent motion renders their original motion moot. We therefore DENY AS MOOT appellants' May 28, 2019 motion to stay discovery. We order the clerk of this court to serve a copy of this order on the trial court and all counsel. It is so ORDERED on May 31, 2019.

PER CURIAM

ATTESTED TO: _____

Keith E. Hottle Clerk of Court