

COURT OF APPEALS OF TEXAS, SECOND DISTRICT, FORT WORTH

Brenda Parramore Davis v. US Bank National Association, as Trustee for SASCO Mortgage Loan Trust 2005-RF3

Davis v. US Bank · No. 02-12-00323-CV · Decided October 11, 2012

SUMMARY

The Texas Second Court of Appeals dismissed Brenda Parramore Davis's appeal for want of jurisdiction because her notice of appeal was filed after the applicable deadline. The court also dismissed her emergency motion to stay the writ of possession for lack of jurisdiction.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District, Fort Worth
WRITING FOR THE COURT	Per Curiam; Gabriel, J.; Livingston, C.J.; Dauphinot, J.
JURISDICTION	Texas
DECIDED	October 11, 2012
DOCKET	02-12-00323-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant attempted to appeal an order signed June 6, 2012, but filed her notice of appeal on August 6, 2012. The court dismissed the appeal for want of jurisdiction because the notice was untimely and also dismissed an emergency motion to stay a writ of possession.
STANDARD OF REVIEW	Whether the court had appellate jurisdiction based on the timeliness of the notice of appeal.
PRECEDENTIAL VALUE	nonprecedential memorandum opinion
PARTIES	Brenda Parramore Davis v. US Bank National Association, as Trustee for SASCO Mortgage Loan Trust 2005-RF3

TOPICS

[appellate jurisdiction](#) [appellate procedure](#) [civil procedure](#)

PRACTICE AREAS

[appellate procedure](#) [civil procedure](#)

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction when the notice of appeal was filed after the applicable appellate deadline.
2. Whether the court could consider Davis's emergency motion to stay a writ of possession despite the lack of appellate jurisdiction.

HOLDINGS

1. A notice of appeal filed after the applicable deadline, absent a post-judgment motion extending that deadline, does not invoke the court of appeals' jurisdiction; the appeal must be dismissed for want of jurisdiction.
2. The court lacked jurisdiction to consider and dismissed the emergency motion to stay the writ of possession.

KEY QUOTATIONS

“Having received no response, we dismiss the appeal for want of jurisdiction.”

“It is ordered that the appeal is dismissed for want of jurisdiction.”

FACTUAL BACKGROUND

The trial court signed the challenged order on June 6, 2012. No post-judgment motion was filed that would extend the deadline for perfecting the appeal. Davis filed her notice of appeal on August 6, 2012, after the July 6, 2012 deadline.

PROCEDURAL HISTORY

The underlying matter was in County Court at Law No. 1 of Tarrant County under case number 2012-003097-1. The trial court signed the order on June 6, 2012. No post-judgment motion extending the appellate deadline was filed, and the court of appeals dismissed the appeal after receiving no response to its jurisdictional-warning letter.

DISPOSITION

dismissed

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 02-12-00323-CV
Brenda Parramore Davis APPELLANT V. US Bank National Association, as Trustee For SASCO
Mortgage Loan Trust 2005-RF3 APPELLEE FROM County Court at Law No. 1 OF Tarrant
COUNTY MEMORANDUM OPINION[1] On August 6, 2012, Appellant filed a notice of appeal,
attempting to appeal an order that was signed on June 6, 2012.

No post-judgment motion was filed to extend the appellate deadline, so the notice of appeal was due July 6, 2012. See Tex. R. App. P. 26.1(a). On August 22, 2012, we sent Appellant a letter notifying her of our concern that we lacked jurisdiction over this case because the notice of appeal was not timely filed. See Tex. R. App. P. 26.1.

We stated that unless Appellant or any party desiring to continue the appeal files with this court, on or before September 4, 2012, a response showing grounds for continuing the appeal, the appeal may be dismissed for want of jurisdiction.

Having received no response, we dismiss the appeal for want of jurisdiction. See Tex. R. App. P. 42.3, 43.2(f). We also dismiss Appellant's "Emergency Motion to Stay Writ of Possession" for want of jurisdiction. PER CURIAM PANEL: GABRIEL, J.; LIVINGSTON, C.J.; and DAUPHINOT, J. DELIVERED: October 11, 2012 COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 02-12-00323-CV Brenda Parramore Davis v. US Bank National Association, as Trustee For SASCO Mortgage Loan Trust 2005-RF3 § § § § From County Court at Law No. 1 of Tarrant County (2012-003097-1) October 11, 2012 Per Curiam JUDGMENT This court has considered the record on appeal in this case and holds that the appeal should be dismissed.

It is ordered that the appeal is dismissed for want of jurisdiction. SECOND DISTRICT COURT OF APPEALS PER CURIAM [1]See Tex. R. App. P. 47.4.