

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Jack L. Martin and Kathran J. Martin v. Christina Lonze Ball

Martin v. Ball · No. 05-17-00738-CV · Decided August 2, 2017

SUMMARY

The Fifth District Court of Appeals of Texas denied the appellee's contest to Jack Martin's statement of inability to afford payment of court costs. The court held that Texas Rule of Appellate Procedure 20.1 does not permit a challenge to the appellate court's decision allowing a party to proceed without paying appellate filing fees, and noted that appellate-record fees are governed separately.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Carolyn Wright
JURISDICTION	Texas
DECIDED	August 2, 2017
DOCKET	05-17-00738-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellee contested the appellate court's decision allowing appellant Jack Martin to proceed without payment of the court's filing fees or an appeal bond.
PRECEDENTIAL VALUE	published
PARTIES	Jack L. Martin, Kathran J. Martin v. Christina Lonze Ball

TOPICS

appellate procedure

costs

civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

court costs

QUESTIONS PRESENTED

1. Whether appellee could contest the appellate court's decision allowing appellant to proceed without payment of appellate filing fees.

2. Whether Texas Rule of Appellate Procedure 20.1 governed payment for preparation of the appellate record or permitted a contest based on that issue.

HOLDINGS

1. A challenge to the Court's decision allowing a party to proceed without payment of the appellate court's costs is not permitted under Texas Rule of Appellate Procedure 20.1(c).

KEY QUOTATIONS

“A challenge to this Court’s decision to allow a party to proceed without payment of our costs is not allowed.” (Order)

FACTUAL BACKGROUND

Jack Martin filed a statement of inability to afford payment of court costs or an appeal bond. The appellate court notified him that he could proceed without paying its filing fees, while explaining that preparation fees for the clerk's and reporter's records were governed by Texas Rule of Civil Procedure 145. Those record-preparation fees were paid and the records were filed. Christina Lonze Ball then contested the decision allowing Martin to proceed without payment of the appellate court's costs.

PROCEDURAL HISTORY

The appeal was pending from the 14th Judicial District Court of Dallas County, Texas. Jack Martin filed a statement of inability to afford payment of court costs or an appeal bond on June 27, 2017. The Court allowed him to proceed without payment of appellate filing fees, and appellee later filed a contest, which the Court denied.

DISPOSITION

other

OPINION

PER CURIAM.

Order entered August 2, 2017 In The Court of Appeals Fifth District of Texas at Dallas No. 05-17-00738-CV JACK L. MARTIN AND KATHRAN J. MARTIN, Appellants V. CHRISTINA LONZE BALL, Appellee On Appeal from the 14th Judicial District Court Dallas County, Texas Trial Court Cause No. DC-16-06373 ORDER Before the Court is appellee’s July 31, 2017 contest of statement of inability to afford payment of court costs.

Appellant Jack Martin filed a statement of inability to afford payment of court costs or an appeal bond in this Court on June 27, 2017. By letter dated June 29, 2017 with a copy sent to counsel for appellee, the Court informed appellant that he was allowed to proceed without payment of this Court’s filing fees. See TEX. R. APP. P. 20.1(a), (c).

We further informed appellant that fees charged for preparation of the appellate record are governed by Texas Rule of Civil Procedure 145. See *id.* 20.1(a). The fees for preparation of the clerk's and reporter's records have been paid and the records have been filed.

In her motion, appellee cites to rule 20.1(d)(2)(B) regarding the deadline for filing a contest. Rule 20.1 was substantially revised effective September 1, 2016 and 20.1(d)(2)(B) no longer exists. As noted above, rule 20.1 no longer covers payment for the appellate record. See *id.* 20.1(a).

The costs covered by rule 20.1 are the filing fees charged by the appellate court. See *id.* A challenge to this Court's decision to allow a party to proceed without payment of our costs is not allowed. See TEX. R. APP. P. 20.1(c).

Accordingly, we DENY appellee's contest. /s/ CAROLYN WRIGHT CHIEF JUSTICE