

FOURTH COURT OF APPEALS OF TEXAS

Ammonite Oil & Gas Corporation v. Railroad Commission of Texas

Ammonite Oil & Gas · No. 04-20-00465-CV · Decided October 20, 2020

SUMMARY

The Texas Fourth Court of Appeals ordered Ammonite Oil & Gas Corporation to show cause why its appeal should not be dismissed for lack of jurisdiction. The court concluded that the notice of appeal was filed after the applicable deadline and that the period for seeking an extension had expired.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas
WRITING FOR THE COURT	Beth Watkins
JURISDICTION	Texas
DECIDED	October 20, 2020
DOCKET	04-20-00465-CV
DISPOSITION	other
PROCEDURAL POSTURE	The appellant filed an untimely notice of appeal from a final appealable order, and the court issued an order requiring the appellant to show cause why the appeal should not be dismissed for lack of jurisdiction.
STANDARD OF REVIEW	The court treated timeliness of the notice of appeal as a jurisdictional issue.
PRECEDENTIAL VALUE	Published Texas intermediate appellate court order
PARTIES	Ammonite Oil & Gas Corporation v. Railroad Commission of Texas

TOPICS

- appellate jurisdiction
- final judgment rule
- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction when appellant filed its notice of appeal after the deadline prescribed by Texas Rule of Appellate Procedure 26.1(a) and after the period for seeking an extension under Rule 26.3 had expired.
2. Whether appellant should be required to show cause why the appeal should not be dismissed for lack of jurisdiction.

HOLDINGS

1. Once the period for obtaining an extension of time to file a notice of appeal under Texas Rule of Appellate Procedure 26.3 has expired, a party can no longer invoke the appellate court's jurisdiction by filing a notice of appeal.
2. When the notice of appeal appears untimely and the extension period has expired, the court may order the appellant to show cause why the appeal should not be dismissed for lack of jurisdiction.

KEY QUOTATIONS

“[O]nce the period for granting a motion for extension of time under Rule [26.3] has passed, a party can no longer invoke the appellate court's jurisdiction.”

FACTUAL BACKGROUND

The trial court signed a final appealable order on June 22, 2020. The appellant did not file its notice of appeal until September 17, 2020, after both the ordinary deadline for filing the notice of appeal and the deadline for seeking an extension had expired.

PROCEDURAL HISTORY

The 36th Judicial District Court of McMullen County signed a final appealable order on June 22, 2020. Because no postjudgment motion or request for findings was contained in the clerk's record, the notice of appeal was due July 22, 2020, and any extension motion was due August 6, 2020. Appellant filed its notice of appeal on September 17, 2020. The court of appeals ordered appellant to show cause by October 30, 2020, why the appeal should not be dismissed.

DISPOSITION

other

CASES CITED

- Verburgt v. Dorner, 959 S.W.2d 615, 617 (Tex. 1997)