

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

David Goad v. Zuehl Airport Flying Community Owners Association, Inc.

No. 08-10-00216-CV · No. No. 08-10-00216-CV · Decided September 22, 2010

SUMMARY

The Eighth District Court of Appeals dismissed the appeal for lack of jurisdiction because the trial court had not issued a final judgment or other appealable order. The appellee's motion for reconsideration of the appellant's in forma pauperis status was denied as moot.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District, El Paso
WRITING FOR THE COURT	David Wellington Chew, Chief Justice; McClure, Justice; Rivera, Justice
JURISDICTION	Texas
DECIDED	September 22, 2010
DOCKET	No. 08-10-00216-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant filed an interlocutory appeal from purported verbal trial-court rulings. The appellee moved to dismiss for lack of appellate jurisdiction and separately moved for reconsideration of the order allowing appellant to proceed in forma pauperis.
STANDARD OF REVIEW	The court determined de novo whether it possessed appellate jurisdiction.
PRECEDENTIAL VALUE	Published status is indicated by the supplied metadata; the opinion itself is styled a memorandum opinion.
PARTIES	David Goad v. Zuehl Airport Flying Community Owners Association, Inc.

TOPICS

[appellate jurisdiction](#)[final judgment rule](#)[interlocutory appeal](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal from purported verbal trial-court rulings when the record contained neither a signed order nor a final judgment.
2. Whether appellee's motion for reconsideration of the order permitting appellant to proceed in forma pauperis should be decided after dismissal of the appeal.

HOLDINGS

1. The court of appeals lacked jurisdiction because the record contained neither a final judgment nor an appealable interlocutory order authorized by statute.
2. The motion for reconsideration of the order permitting appellant to proceed in forma pauperis was denied as moot.

KEY QUOTATIONS

“Appellate courts generally have jurisdiction over final judgments, and such interlocutory orders as the legislature deems appealable.”

“Given the absence of a final judgment or appealable order in this case, Appellee’s motion to dismiss for lack of jurisdiction is GRANTED.”

FACTUAL BACKGROUND

The trial court allegedly made verbal rulings on March 31, 2010, which appellant claimed involved the seizure of property. No written order memorializing those rulings appeared in the clerk's record, and the record also lacked a final judgment. Appellant nevertheless filed a notice of appeal on June 30, 2010.

PROCEDURAL HISTORY

The appeal arose from proceedings in the 25th Judicial District Court of Guadalupe County, Texas, trial court cause number 08-1872-CV. Appellant filed a notice of appeal on June 30, 2010, identifying verbal rulings allegedly made on March 31, 2010, but the clerk's record contained neither a signed order referencing those rulings nor a final judgment. The court of appeals dismissed the appeal for lack of jurisdiction and denied the motion for reconsideration as moot.

DISPOSITION

dismissed

CASES CITED

- Ruiz v. Ruiz, 946 S.W.2d 123, 124 (Tex. App.—El Paso 1997, no pet.)

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS DAVID GOAD, Appellant, v. ZUEHL AIRPORT FLYING COMMUNITY OWNERS ASSOCIATION, INC., Appellee. § § § § § § No. 08-10-00216-CV Appeal from the 25th Judicial District Court of Guadalupe County, Texas (TC# 08-1872-CV) MEMORANDUM OPINION Pending before the Court are two motions filed by the Appellee.

In the first motion, Appellee requests that this Court reconsider our order permitting the Appellant to proceed in forma pauperis, on appeal. In the second motion, Appellee requests that this Court dismiss the appeal for lack of jurisdiction.

Because a final, appealable order has not been issued by the trial court in this case we will grant Appellee's motion to dismiss. Appellee's motion for reconsideration will be denied as moot. Appellant filed a notice of appeal on June 30, 2010.

The notice of appeal states, in part: The order appealed from was verbal [sic] made on March 31, 2010. The order was never signed. However, the actions of the Court constitute the same by the seizer [sic] of property.

The clerk's record does not include an order referencing the trial court's March 31 rulings, nor does it contain a final judgment. Appellate courts generally have jurisdiction over final judgments, and such interlocutory orders as the legislature deems appealable. Tex.Civ.Prac.&Rem.Code Ann. § 51.012 (Vernon Supp. 2010) & § 51.014 (Vernon 2008); Ruiz v. Ruiz, 946 S.W.2d 123, 124 (Tex.App.--El Paso 1997, no pet.).

Given the absence of a final judgment or appealable order in this case, Appellee's motion to dismiss for lack of jurisdiction is GRANTED. Appellee's motion for reconsideration is DENIED as moot. September 22, 2010 DAVID WELLINGTON CHEW, Chief Justice Before Chew, C.J., McClure, and Rivera, JJ.