

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

In re Estate of Miguel Alonso Hernandez, Deceased

No. 03-15-00550-CV · No. 03-15-00550-CV · Decided August 31, 2015

SUMMARY

The Texas Court of Appeals, Third District, dismissed an attempted appeal from a 2003 order declaring the appellants vexatious litigants under chapter 11 of the Texas Civil Practice and Remedies Code. The court held that the statute did not authorize an appeal more than eleven years after the order was signed and dismissed for want of jurisdiction.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Jeff Rose, Chief Justice; Justice Pemberton; Justice Field
JURISDICTION	Texas
DECIDED	August 31, 2015
DOCKET	03-15-00550-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants attempted to appeal from a 2003 order declaring them vexatious litigants under chapter 11 of the Texas Civil Practice and Remedies Code.
PRECEDENTIAL VALUE	memorandum opinion; precedential status not stated in the opinion text
PARTIES	Daniel Montes, Juana Perez Hernandez, Elizabeth H. Hudson

TOPICS

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

PRACTICE AREAS

[Probate](#) [Appellate procedure](#) [Vexatious litigant procedure](#)

QUESTIONS PRESENTED

- Whether appellants could obtain appellate review of a 2003 vexatious-litigant order more than eleven years after the order was signed.

HOLDINGS

1. The appeal was untimely, and chapter 11 did not authorize an appeal from the order more than eleven years after it was signed; therefore, the Court of Appeals lacked jurisdiction.

KEY QUOTATIONS

“Accordingly, we dismiss this appeal for want of jurisdiction.”

FACTUAL BACKGROUND

In 2003, the trial court entered an order under chapter 11 of the Texas Civil Practice and Remedies Code declaring Daniel Montes, Juana Perez Hernandez, and Elizabeth H. Hudson vexatious litigants. The appellants attempted to appeal that order more than eleven years after it was signed. They argued that chapter 11 afforded them a right to appeal despite the delay.

PROCEDURAL HISTORY

The County Court at Law No. 1 of Hays County entered the vexatious-litigant order in 2003. More than eleven years later, appellants attempted to appeal that order, arguing that chapter 11 authorized the appeal. The Court of Appeals dismissed the attempted appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- In re Montes, No. 03-15-00472-CV, 2015 Tex. App. LEXIS 8648, at *2 (Tex. App.—Austin Aug. 18, 2015, orig. proceeding) (mem. op.)

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-15-00550-CV In re Estate of Miguel Alonso Hernandez, Deceased FROM THE COUNTY COURT AT LAW NO. 1 OF HAYS COUNTY NO. 9634-P, HONORABLE ROBERT UPDEGROVE,¹ JUDGE PRESIDING M E M O R A N D U M O P I N I O N Appellants Daniel Montes, Juana Perez Hernandez, and Elizabeth H. Hudson filed this attempted appeal from a 2003 order entered under chapter 11 of the Texas Civil Practice and Remedies Code declaring them vexatious litigants.

See Tex. Civ. Prac. & Rem. Code § 11.101(a); <http://www.txcourts.gov/judicial-data/vexatious-litigants.aspx>.² Appellants contend that chapter 11 affords them an appeal of the 2003 order, but nothing in the statute allows an appeal of the order more than eleven years after it was signed. See Tex. Civ. Prac. & Rem. Code § 11.101(c); Tex. R. App. P. 26.1 (time to perfect appeals).

Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 2, 42.3(a). 1 We substitute the current judge of this court for Judge Howard S. Warner, who signed the order appealed here but is now deceased. 2 After we dismissed petitions for writ of mandamus (and various motions) that appellant Montes filed without obtaining the prefiling order required under chapter 11, Montes removed the cause to federal court.

See *In re Montes*, No. 03-15-00472-CV, 2015 Tex. App. LEXIS 8648, at *2 (Tex. App.—Austin Aug. 18, 2015, orig. proceeding) (mem. op.); see also Tex. Civ. Prac. & Rem. Code § 11.102.

Jeff Rose, Chief Justice Before Chief Justice Rose, Justices Pemberton and Field Dismissed for Want of Jurisdiction Filed: August 31, 2015 2