

COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS AT EL PASO

David Gonzales and Ann Gonzales v. City of El Paso

No. 08-25-00332-CV · No. No. 08-25-00332-CV · Decided June 10, 2026

SUMMARY

The Eighth District Court of Appeals of Texas affirmed the denial of David Gonzales and Ann Gonzales’s special appearance in the City of El Paso’s delinquent ad valorem property-tax suit. The court held that the appellants’ objections concerned alleged defects in service of process, which should have been raised by a motion to quash rather than a special appearance, and that the appellants conceded they were Texas residents. The court also concluded that the filing operated as a general appearance and affirmed the trial court’s ruling.

CASE DETAILS

COURT	Court of Appeals for the Eighth District of Texas at El Paso
WRITING FOR THE COURT	Gina M. Palafox; Salas Mendoza, C.J.; Gina M. Palafox, Justice; Soto, Justice
JURISDICTION	Court of Appeals, Eighth District of Texas, El Paso
DECIDED	June 10, 2026
DOCKET	No. 08-25-00332-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of appellants' special appearance and plea to the jurisdiction in an ad valorem property-tax suit.
STANDARD OF REVIEW	A ruling granting or denying a special appearance is reviewed de novo, although factual findings underlying the ruling may be reviewed for legal and factual sufficiency.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status identified in the supplied metadata as published.
PARTIES	David Gonzales, Ann Gonzales v. City of El Paso

TOPICS

- personal jurisdiction
- service of process
- interlocutory appeal
- appellate procedure
- property tax

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appellants could obtain relief through a special appearance by asserting that the original citation, petition, and returns of service used a misspelled surname.
2. Whether the trial court erred by accepting the City's amended petition without requiring service of the live pleading on the appellants.
3. Whether a curable defect in service of process defeats personal jurisdiction or instead must be raised by a motion to quash.

HOLDINGS

1. A curable defect in service of process does not defeat a nonresident defendant's amenability to process and must be raised by a motion to quash rather than by a special appearance. Because the appellants conceded they were Texas residents and challenged only the propriety of service, their special appearance lacked merit.
2. Strict compliance with service rules is required before a default judgment may be entered, but a service defect in a case without a default judgment does not require dismissal or reversal of the denial of a special appearance. The proper relief is additional time to answer through a successful motion to quash.
3. Because the appellants' purported special appearance challenged only defective service, it operated as a general appearance and cured any service defect; the trial court therefore did not err in denying the special appearance or in accepting the amended petition without the relief sought by appellants.

KEY QUOTATIONS

"A curable defect in service of process does not affect a non-resident defendant's amenability to service of process." (3)

"We hold that a default judgment is improper against a defendant who has not been served in strict compliance with law, even if he has actual knowledge of the lawsuit." (5)

FACTUAL BACKGROUND

The City filed suit to recover \$8,031.70 in delinquent 2023 ad valorem taxes on real property in El Paso County. The original petition and citations identified David and Ann Gonzales using the surname Gonzalez, with a "z," while the appellants' surname was Gonzales, with an "s." The appellants, who conceded they were Texas residents, challenged the spelling discrepancy and alleged lack of personal service through a special appearance. The City later amended its petition to use the correct spelling and alleged additional delinquent taxes for 2024.

PROCEDURAL HISTORY

The City of El Paso sued to recover delinquent ad valorem taxes on real property in El Paso County. The Gonzaleses filed a special appearance, arguing that the original petition, citations, and returns incorrectly spelled their surname and that they had not been properly served. The trial court denied the special appearance and

accepted the City's amended petition. The Gonzaleses brought an interlocutory appeal under Texas Civil Practice and Remedies Code section 51.014(a)(7).

DISPOSITION

affirmed

CASES CITED

- Searcy v. Parex Res., Inc., 496 S.W.3d 58, 66 (Tex. 2016)
- Am. Type Culture Collection, Inc. v. Coleman, 83 S.W.3d 801, 806 (Tex. 2002)
- BMC Software Belgium, N.V. v. Marchand, 83 S.W.3d 789, 794 (Tex. 2002)
- Kawasaki Steel Corp. v. Middleton, 699 S.W.2d 199, 202–03 (Tex. 1985) (per curiam)
- HMS Aviation v. Layale Enterprises, S.A., 149 S.W.3d 182, 189 (Tex. App.—Fort Worth 2004, no pet.)
- Vitro Packaging de Mexico, S.A. de C.V. v. Dubiel, No. 05-17-00258-CV, 2017 WL 6349708, at *3 (Tex. App.—Dallas Dec. 13, 2017, pet. denied) (mem. op.)
- Baker v. Monsanto Co., 111 S.W.3d 158, 161 (Tex. 2003)
- Summersett v. Jaiyeola, 438 S.W.3d 84, 92–93 (Tex. App.—Corpus Christi 2013, pet. denied)
- Cantu v. Gray & Becker, P.C., No. 03-02-00099-CV, 2002 WL 31599470, at *4 (Tex. App.—Austin Nov. 21, 2002, pet. denied) (mem. op.)
- Avila v. Avila, 843 S.W.2d 280, 280, 282 (Tex. App.—El Paso 1992, no writ)
- Uvalde Country Club v. Martin Linen Supply Co., Inc., 690 S.W.2d 884, 885 (Tex. 1985)
- Wilson v. Dunn, 800 S.W.2d 833, 836–37 (Tex. 1990)
- Raymond Corp. v. Rubio, 658 S.W.3d 740, 749 (Tex. App.—El Paso 2022, pet. denied)