

FOURTH COURT OF APPEALS OF TEXAS AT SAN ANTONIO

In the Interest of S.A.W., a Child

No. 04-16-00308-CV · No. No. 04-16-00308-CV · Decided June 20, 2016

SUMMARY

The Fourth Court of Appeals of Texas determined that appellant Bradley D. Winters timely filed his notice of appeal because a timely request for findings of fact extended the appellate timetable. The court retained the appeal, reinstated appellate deadlines, and ordered appellant to file his brief by July 20, 2016.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas at San Antonio
WRITING FOR THE COURT	Marialyn Barnard
JURISDICTION	Texas
DECIDED	June 20, 2016
DOCKET	No. 04-16-00308-CV
DISPOSITION	other
PROCEDURAL POSTURE	The court ordered the appellant to show cause why his appeal should not be dismissed for lack of jurisdiction because of a possible untimely notice of appeal. After considering his response, the court retained the appeal and reinstated the appellate deadlines.
PRECEDENTIAL VALUE	Published
PARTIES	Bradley D. Winters v. S.A.W., a Child

TOPICS

- appellate jurisdiction
- appellate procedure
- family law procedure

PRACTICE AREAS

- appellate procedure
- family law

QUESTIONS PRESENTED

- Whether the appellant's request for findings of fact extended the appellate timetable under Texas Rule of Civil Procedure 296 and Texas Rule of Appellate Procedure 26.1(a).

2. Whether the appellant's notice of appeal was timely and whether the appeal should be dismissed for lack of jurisdiction.

HOLDINGS

1. Because the appellant timely filed a request for findings of fact, the appellate timetable was extended under Texas Rule of Civil Procedure 296 and Texas Rule of Appellate Procedure 26.1(a).
2. The appeal was not subject to dismissal for lack of jurisdiction because the notice of appeal was timely; the court retained the appeal and reinstated appellate deadlines.

KEY QUOTATIONS

“Because appellant’s request for findings of facts was timely filed, appellant’s notice of appeal was also timely filed.”

“Accordingly, we retain this appeal on the docket of the Court and reinstate appellate deadlines.”

FACTUAL BACKGROUND

The appeal involved a child-protection or family-law matter concerning S.A.W., a child. The appellate court's jurisdictional inquiry focused on the timeliness of appellant Bradley D. Winters's notice of appeal. Winters stated that he had timely requested findings of fact, thereby extending the appellate timetable.

PROCEDURAL HISTORY

The appeal arose from the 216th Judicial District Court of Gillespie County, Texas, trial court cause number 12167. The appellate court issued a June 6, 2016 show-cause order concerning appellate jurisdiction. The appellant responded that he timely filed a request for findings of fact, which extended the appellate timetable. The court accepted that explanation, retained the appeal on its docket, reinstated appellate deadlines, and ordered the appellant to file his brief by July 20, 2016.

DISPOSITION

other

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas June 20, 2016 No. 04-16-00308-CV IN THE INTEREST OF S.A.W., A CHILD, From the 216th Judicial District Court, Gillespie County, Texas Trial Court No. 12167 Honorable N. Keith Williams, Judge Presiding ORDER On June 6, 2016, we ordered appellant Bradley D. Winters to show cause why his appeal should not be dismissed for lack of jurisdiction.

On June 7, 2016, appellant responded by stating he timely filed a request for findings of facts, which extended the appellate timetable. See TEX. R. CIV. P. 296; TEX. R. APP. P. 26.1(a). Because appellant's request for findings of facts was timely filed, appellant's notice of appeal was also timely filed. See TEX. R. APP. P. 26.1(a).

We deem this response adequate to show why this appeal should not be dismissed for lack of jurisdiction. Accordingly, we retain this appeal on the docket of the Court and reinstate appellate deadlines. At this time, both the clerk's record and reporter's record have been filed.

We therefore ORDER appellant to file appellant's brief in this court on or before July 20, 2016.

_____ Marialyn Barnard, Justice IN WITNESS WHEREOF, I
have hereunto set my hand and affixed the seal of the said court on this 20th day of June, 2016.

_____ Keith E. Hottle Clerk of Court