

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Rachel Leal-Hudson v. Julie Kettermann

No. 01-22-00344-CV (Tex. App.—Houston [1st Dist.] Aug. 24, 2022) · No. 01-22-00344-CV · Decided August 24, 2023

SUMMARY

The Texas Court of Appeals for the First District considered Rachel Leal-Hudson’s challenge to a trial court judgment disqualifying her from election ballots and voiding votes cast for her. The court held that her appeal was timely and that the case became moot after the general election occurred and Leal-Hudson lost. It vacated the trial court’s judgment and dismissed the case for lack of jurisdiction.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Richard Hightower; Chief Justice Adams; Justice Hightower; Justice Countiss
JURISDICTION	Texas
DECIDED	August 24, 2023
DOCKET	01-22-00344-CV
DISPOSITION	vacated
PROCEDURAL POSTURE	Leal-Hudson appealed from a final judgment disqualifying her from the Republican primary and general-election ballots and declaring votes cast for her void. Kettermann moved to dismiss the appeal as untimely, and the court addressed the motion before determining that intervening election results rendered the appeal moot.
STANDARD OF REVIEW	Questions concerning subject-matter jurisdiction and the interpretation of the Texas Rules of Appellate Procedure are reviewed as questions of law. The court independently considered mootness because courts must review jurisdictional issues sua sponte.
PRECEDENTIAL VALUE	Published memorandum opinion; treated as precedential under the source metadata.
PARTIES	Rachel Leal-Hudson v. Julie Kettermann

TOPICS

election law

mootness

appellate procedure

subject matter jurisdiction

motions to dismiss

PRACTICE AREAS

Election law

Appellate procedure

Civil procedure

Remedies

QUESTIONS PRESENTED

1. Whether Leal-Hudson's May 4, 2022 notice of appeal was untimely under Texas Rules of Appellate Procedure 26.1 and 57.5.
2. Whether the appeal became moot after the November 8, 2022 general election occurred and Leal-Hudson lost.
3. Whether the court should vacate the trial court's judgment and dismiss the case for want of jurisdiction after the appeal became moot.

HOLDINGS

1. Leal-Hudson's notice of appeal was timely because her timely motion for new trial extended the deadline under Rule 26.1(a)(1) to 90 days after the judgment was signed. Rule 57.5 did not supersede Rule 26.1; instead, the two rules can be harmonized, with Rule 57.5 providing a safe harbor after dismissal of a direct appeal.
2. The appeal became moot because the general election occurred, the votes were counted, and Leal-Hudson lost, leaving the court unable to grant relief affecting the parties' rights or interests.
3. The court was required to vacate the trial court's judgment and dismiss the case for want of jurisdiction because the appeal became moot while appellate review was pending.

KEY QUOTATIONS

“A case becomes moot when (1) a justiciable controversy no longer exists between the parties, (2) the parties no longer have a legally cognizable interest in the case’s outcome, (3) the court can no longer grant the requested relief or otherwise affect the parties’ rights or interests, or (4) any decision would constitute an impermissible advisory opinion.” (at 8)

“Because any decision by this Court on the controversy cannot have any practical legal effect on the parties’ rights, the case is now moot.” (at 10)

FACTUAL BACKGROUND

Leal-Hudson and Ketterman applied to appear on the Republican primary ballot for judge of the 313th District Court of Harris County. Ketterman alleged that Leal-Hudson falsely attested that she had witnessed petition signatures and read a required statement to the signers. The trial court entered judgment disqualifying Leal-Hudson and declaring votes for her void, but the Texas Supreme Court stayed the judgment; Leal-Hudson won the primary and then lost the November general election while this appeal was pending.

PROCEDURAL HISTORY

Ketterman sued the Harris County Republican Party and its chair, and Leal-Hudson intervened after Ketterman challenged the validity of petition affidavits supporting Leal-Hudson's ballot application. After a jury found ten instances of fraud, the trial court entered judgment disqualifying Leal-Hudson and voiding votes cast for her. The Texas Supreme Court stayed that judgment, Leal-Hudson won the primary but lost the November 8, 2022 general election, and she pursued this appeal after her timely motion for new trial was overruled by operation of law. The court denied Ketterman's motion to dismiss as untimeliness was not established under Rules 26.1 and 57.5, then vacated the trial court's judgment and dismissed the case for want of jurisdiction because it had become moot.

DISPOSITION

vacated

CASES CITED

- In re Ketterman, No. 01-22-00041-CV, 2022 WL 278930, at *1 (Tex. App.—Houston [1st Dist.] Jan. 28, 2022, orig. proceeding) (mem. op.)
- Office of Public Utility Counsel v. Public Utility Commission, 878 S.W.2d 598, 600 (Tex. 1994)
- City of Edinburg v. Jasso, No. 13-18-00330-CV, 2020 WL 103859, at *1 (Tex. App.—Corpus Christi-Edinburg Jan. 9, 2020, no pet.) (mem. op.)
- Tex. Indus. Energy Consumers v. CenterPoint Energy Houston Elec., LLC, 324 S.W.3d 95, 107 (Tex. 2010)
- Verburgt v. Dorner, 959 S.W.2d 615, 616 (Tex. 1997)
- M.O. Dental Lab v. Rape, 139 S.W.3d 671, 673 (Tex. 2004)
- Bland Independent School District v. Blue, 34 S.W.3d 547, 553-54 (Tex. 2000)
- Texas Department of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226 (Tex. 2004)
- State ex rel. Best v. Harper, 562 S.W.3d 1, 6 (Tex. 2018)
- Electric Reliability Council of Tex., Inc. v. Panda Power Generation Infrastructure Fund, LLC, 619 S.W.3d 628, 634-35 (Tex. 2021)
- In re Guardianship of Fairley, 650 S.W.3d 372, 379 (Tex. 2022)
- Heckman v. Williamson County, 369 S.W.3d 137, 162, 166-67 (Tex. 2012)
- In re Uresti, 377 S.W.3d 696, 696 (Tex. 2012) (per curiam)
- Alsobrook v. MTGLQ Investors, LP, 656 S.W.3d 394, 395 (Tex. 2022)
- Marshall v. Housing Authority of the City of San Antonio, 198 S.W.3d 782, 785 (Tex. 2006)