

COURT OF APPEALS OF TEXAS, SECOND DISTRICT, FORT WORTH

Sheik Tehuti v. Lisa R. Woodard

Sheik Tehuti v. Lisa R. Woodard · No. 02-17-00395-CV · Decided April 5, 2018

SUMMARY

The Texas Court of Appeals for the Second District dismissed Sheik Tehuti’s appeal for want of jurisdiction. The court concluded that the challenged interlocutory transfer orders were not appealable and that the appeal was moot to the extent it sought transfer of the underlying case.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District, Fort Worth
WRITING FOR THE COURT	Pittman, J.; Sudderth, C.J.; Walker, J.
JURISDICTION	Texas
DECIDED	April 5, 2018
DOCKET	02-17-00395-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se appellant attempted to appeal interlocutory orders denying motions seeking transfer of the case and alleging judicial misconduct. The court questioned its jurisdiction and the mootness of the appeal, received no response, and dismissed the appeal for want of jurisdiction.
STANDARD OF REVIEW	The court reviewed its own appellate jurisdiction, including whether the challenged orders were appealable interlocutory orders or a final judgment and whether the appeal was moot.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Sheik Tehuti v. Lisa R. Woodard

TOPICS

appellate jurisdiction

interlocutory appeal

mootness

final judgment rule

appellate procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the appeal could be maintained when the challenged transfer orders were not appealable interlocutory orders and no final judgment had been entered.
2. Whether the appeal was moot to the extent appellant sought transfer of the case to a different court and judge.
3. Whether an order denying a motion to recuse or disqualify is an appealable interlocutory order.

HOLDINGS

1. The court lacked appellate jurisdiction because the denied transfer orders were not appealable interlocutory orders or a final judgment.
2. The appeal was moot to the extent appellant sought transfer of his case to a different court and judge because the case had already been transferred.
3. An order denying a motion to recuse or a motion to disqualify is not an appealable interlocutory order under the circumstances presented.

KEY QUOTATIONS

“Accordingly, we dismiss this appeal for want of jurisdiction.” (at 2)

“Thus, this appeal is moot to the extent that the transfer of Appellant’s case to a different court and judge was the relief he sought.” (at 1)

FACTUAL BACKGROUND

Sheik Tehuti sought transfer of his case and asserted claims of judicial misconduct in motions filed in the trial court. The motions were denied on November 7, 2017. On that same day, the underlying case was transferred from the 342nd District Court to the 48th District Court, rendering the requested transfer relief moot to that extent.

PROCEDURAL HISTORY

The underlying case was transferred from the 342nd District Court to the 48th District Court on the same day that the challenged motions were denied. The trial court entered the challenged orders on November 7, 2017. The court of appeals notified the parties that the orders did not appear appealable and that the transfer-related relief appeared moot; after receiving no response, it dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Heckman v. Williamson Cty., 369 S.W.3d 137, 166–67 (Tex. 2012)
- Gen. Land Office v. OXY U.S.A., Inc., 789 S.W.2d 569, 570–72 (Tex. 1990)

- *Hawkins v. Walker*, 233 S.W.3d 380, 401 (Tex. App.—Fort Worth 2007, pet. denied)
- *Vega v. Lira*, No. 01-16-00369-CV, 2016 WL 4253696, at *2 (Tex. App.—Houston [1st Dist.] Aug. 11, 2016, no pet.) (mem. op.)
- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001)

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 02-17-00395-CV SHEIK TEHUTI APPELLANT V. LISA R. WOODARD APPELLEE FROM THE 48TH DISTRICT COURT OF TARRANT COUNTY TRIAL COURT NO. 048-295637-17 MEMORANDUM OPINION 1 Pro se Appellant Sheik Tehuti attempts to appeal the November 7, 2017 interlocutory orders denying his “Motion to Transfer Texas Rule of Civil Procedure 202” and “Motion to Transfer...

All Cases to Another Venue from Judge Wade Birdwell’s Court and Claims of Judicial Misconduct Pending... ” (the denied transfer orders). The underlying case was transferred from the 1 See Tex. R. App. P. 47.4. 342nd District Court to the 48th District Court on the same day that Appellant’s motions were denied.

Thus, this appeal is moot to the extent that the transfer of Appellant’s case to a different court and judge was the relief he sought. See *Heckman v. Williamson Cty.*, 369 S.W.3d 137, 166–67 (Tex. 2012); *Gen. Land Office v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 570–72 (Tex. 1990). Alternatively, an order denying a motion to recuse is not an appealable interlocutory order, Tex. R. Civ.

P. 18a(f); *Hawkins v. Walker*, 233 S.W.3d 380, 401 (Tex. App.—Fort Worth 2007, pet. denied), nor is an order denying a motion to disqualify, *Vega v. Lira*, No. 01-16-00369-CV, 2016 WL 4253696, at *2 (Tex. App.—Houston [1st Dist.] Aug. 11, 2016, no pet.) (mem. op.).

On January 22, 2018, we notified the parties of our concern that we lack jurisdiction over this appeal because the denied transfer orders do not appear to be appealable interlocutory orders or a final judgment, and we also notified them that the appeal appears moot to the extent that the relief Appellant sought was the transfer of his case to a different court.

We informed the parties that we could dismiss the appeal absent a response showing grounds for continuing the appeal. See Tex. R. App. P. 42.3, 44.3. We have received no response. Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a) (West Supp. 2017) (listing types of appealable interlocutory orders); *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex.

2001) (stating that generally an appeal may be taken only from a final 2 judgment and that a judgment is final and appealable if it disposes of all parties and all issues); see also Tex. R. App. P.

42.3(a), 43.2(f). PER CURIAM PANEL: PITTMAN, J.; SUDDERTH, C.J.; and WALKER, J. SUDDERTH, C.J., concurs without opinion. DELIVERED: April 5, 2018 3

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