

# COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

## Juliana L. Cortez v. Pharia, L.L.C.

No. 01-24-00047-CV · No. 01-24-00047-CV · Decided December 4, 2025

### SUMMARY

The First Court of Appeals of Texas dismisses Juliana L. Cortez’s appeal for lack of jurisdiction. The court holds that an order denying a motion to quash a writ of execution is not appealable and that Cortez’s challenge to the underlying 2010 default judgment was an untimely direct attack. The court notes that Cortez remains free to pursue a collateral attack alleging that the judgment is void for lack of service.

### CASE DETAILS

|                       |                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals for the First District of Texas                                                                                                                                                 |
| WRITING FOR THE COURT | Jennifer Caughey; Justice Rivas-Molloy; Justice Gunn                                                                                                                                             |
| JURISDICTION          | Court of Appeals for the First District of Texas                                                                                                                                                 |
| DECIDED               | December 4, 2025                                                                                                                                                                                 |
| DOCKET                | 01-24-00047-CV                                                                                                                                                                                   |
| DISPOSITION           | dismissed                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Cortez appealed the denial of her motion to quash a writ of execution enforcing a 2010 default judgment. She argued that the default judgment was void because she had not been properly served. |
| STANDARD OF REVIEW    | The court reviewed its appellate jurisdiction de novo and determined whether the challenged order was appealable and whether Cortez's challenge to the default judgment was timely.              |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                        |
| PARTIES               | Juliana L. Cortez v. Pharia, L.L.C.                                                                                                                                                              |

### TOPICS

- appellate jurisdiction
- final judgment rule
- default judgment
- service of process
- civil procedure

### PRACTICE AREAS

- civil procedure
- appellate procedure
- judgment enforcement
- remedies

## QUESTIONS PRESENTED

1. Whether the trial court's order denying Cortez's motion to quash a writ of execution was appealable.
2. Whether Cortez could use this appeal, filed more than thirteen years after the default judgment, as a direct attack on that judgment.
3. Whether Cortez's motion in the original case qualified as a bill of review or a collateral attack on the default judgment.

## HOLDINGS

1. An order incident to a writ of execution that is neither a final judgment nor an order made appealable by statute or rule is not appealable.
2. A direct attack on a judgment, including an appeal asserting that the judgment is void for lack of service, must be brought within the applicable time limits; an appellate court lacks jurisdiction over an untimely direct appeal.
3. The motion did not qualify as a bill of review because it was filed thirteen years after judgment in the original case rather than as a timely separate action under a different cause number.
4. Cortez could not collaterally attack the default judgment through a motion filed in the same lawsuit or through this appeal; a collateral attack must be brought in a new lawsuit under a different cause number.

## KEY QUOTATIONS

*“We dismiss this appeal for lack of jurisdiction.”* (at 1)

*“She remains free to file a collateral attack in trial court, and we offer no comment on the merits of such an attack.”* (at 12)

## FACTUAL BACKGROUND

Pharia sued Cortez in 2009 for unpaid credit-card debt. After six unsuccessful service attempts, the trial court authorized substitute service under Texas Rule of Civil Procedure 106(b), and the record indicated that service was completed on March 12, 2010. Cortez did not appear, and the trial court entered a default judgment on June 23, 2010; Cortez later made dozens of payments toward that judgment. In 2023, after a writ of execution was issued against property, Cortez appeared and challenged the judgment based on alleged lack of service.

## PROCEDURAL HISTORY

Pharia obtained a 2010 default judgment against Cortez after substitute service was authorized and completed. Years later, after multiple writs of execution and payments toward the judgment, Cortez moved to quash a 2023 writ and challenged the validity of the underlying judgment. The trial court denied the motion, and the Court of Appeals dismissed the appeal for lack of jurisdiction.

## DISPOSITION

dismissed

## CASES CITED

- Gordon v. W. Hous. Trees, Ltd., 352 S.W.3d 32, 39 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
- Bison Bldg. Materials, Ltd. v. Aldridge, 422 S.W.3d 582, 585 (Tex. 2012)
- Stary v. DeBord, 967 S.W.2d 352, 352-53 (Tex. 1998)
- Barber Family Corp. v. Roberson, No. 06-22-00060-CV, 2022 WL 5264658, at \*1 (Tex. App.—Texarkana Oct. 7, 2022, no pet.)
- Alexander Dubose Jefferson & Townsend LLP v. Chevron Phillips Chem. Co., 540 S.W.3d 577, 586-87 (Tex. 2018)
- Kennedy v. Hudnall, 249 S.W.3d 520, 522, 524-26 (Tex. App.—Texarkana 2008, no pet.)
- Sintim v. Larson, 489 S.W.3d 551, 554, 556-59 (Tex. App.—Houston [14th Dist.] 2016, no pet.)
- McFadin v. Broadway Coffeehouse, LLC, 539 S.W.3d 278, 284 (Tex. 2018)
- Schultz v. Fifth Jud. Dist. Court of Appeals at Dall., 810 S.W.2d 738, 740 (Tex. 1991)
- In re Sheshtawy, 154 S.W.3d 114 (Tex. 2004)
- In re Thomas, No. 14-10-00001-CV, 2010 WL 183519, at \*1 (Tex. App.—Houston [14th Dist.] Jan. 21, 2010, orig. proceeding)
- In re DEK-M Nationwide, Ltd., 627 S.W.3d 353, 361 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding)
- PNS Stores, Inc. v. Rivera, 379 S.W.3d 267, 271-77 (Tex. 2012)
- In re Thompson, 569 S.W.3d 169, 172-75 (Tex. App.—Houston [1st Dist.] 2018, orig. proceeding)
- Tex. Dep't of Pub. Safety v. Tran, 672 S.W.3d 806, 813 (Tex. App.—Houston [14th Dist.] 2023, no pet.)
- Harper v. Walker, No. 01-23-00928-CV, 2025 WL 1942951, at \*1 (Tex. App.—Houston [1st Dist.] July 15, 2025, no pet.)
- Tafoya v. Green Tree Servicing LLC, No. 03-14-00391-CV, 2014 WL 7464321, at \*2 n.2 (Tex. App.—Austin Dec. 30, 2014, no pet.)
- Cottone v. Cottone, 122 S.W.3d 211, 213 (Tex. App.—Houston [1st Dist.] 2003, no pet.)
- Savage v. Webster, 714 S.W.3d 190, 195 (Tex. App.—Waco 2024, no pet.)
- Valdez v. Hollenbeck, 465 S.W.3d 217, 221, 229-31 (Tex. 2015)
- Browning v. Prostok, 165 S.W.3d 336, 345-46 (Tex. 2005)
- Travelers Ins. Co. v. Joachim, 315 S.W.3d 860, 863 (Tex. 2010)
- Royal Indep. Sch. Dist. v. Ragsdale, 273 S.W.3d 759, 766 n.7 (Tex. App.—Houston [14th Dist.] 2008, no pet.)
- Kenseth v. Dall. Cnty., 126 S.W.3d 584, 596-97 (Tex. App.—Dallas 2004, pet. denied)

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