

COURT OF APPEALS OF THE STATE OF GEORGIA

Candelario Zazueta v. Mupr 3 Assets, LLC

Zazueta · No. A17D0174 · Decided December 7, 2016

SUMMARY

The Georgia Court of Appeals transferred Candelario Zazueta’s discretionary appeal to the Cobb County State Court. The court held that appeals from Cobb County Magistrate Court judgments must proceed by de novo appeal to the state or superior court under OCGA § 15-10-41 (b) (1), and that the Court of Appeals may review the matter only after such review.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	December 7, 2016
DOCKET	A17D0174
DISPOSITION	other
PROCEDURAL POSTURE	Candelario Zazueta filed an application for discretionary appeal from a November 11, 2016 order of the Cobb County Magistrate Court in a dispossessory action.
PRECEDENTIAL VALUE	Published Georgia Court of Appeals opinion
PARTIES	Candelario Zazueta v. Mupr 3 Assets, LLC

TOPICS

[appellate jurisdiction](#) [appellate procedure](#) [civil procedure](#) [eviction](#) [landlord tenant](#)

PRACTICE AREAS

[Appellate procedure](#) [Civil procedure](#) [Landlord-tenant law](#)

QUESTIONS PRESENTED

1. Whether the Georgia Court of Appeals had authority to directly review an order entered by the Cobb County Magistrate Court.
2. Whether the application should be transferred to the Cobb County State Court because Georgia law provides for de novo review of magistrate-court judgments in the state or superior court.

HOLDINGS

1. The only avenue of appeal from a magistrate court judgment is a de novo appeal to the state or superior court under OCGA § 15-10-41 (b) (1); the Georgia Court of Appeals may review magistrate-court matters only after review by the state or superior court.
2. A civil case must be transferred to the appropriate state court when the reviewing court determines that jurisdiction lies elsewhere.

KEY QUOTATIONS

“The only avenue of appeal available from the magistrate court judgment is provided by OCGA § 15-10-41 (b) (1), which allows for a de novo appeal to the state or superior court.”

“This Court thus may address magistrate court matters only if they already have been reviewed by the state or superior court.”

“Accordingly, this appeal is hereby TRANSFERRED to the Cobb County State Court.”

FACTUAL BACKGROUND

Zazueta was involved in a dispossessory action in the Cobb County Magistrate Court. The magistrate court entered an order on November 11, 2016. Rather than first pursuing a de novo appeal to the Cobb County State or Superior Court, Zazueta sought discretionary review directly in the Georgia Court of Appeals.

PROCEDURAL HISTORY

The Cobb County Magistrate Court entered an order in a dispossessory action. Zazueta sought discretionary review in the Georgia Court of Appeals, which determined that a magistrate-court judgment must first be appealed de novo to the state or superior court and that the Court of Appeals could not directly review the matter. The Court of Appeals transferred the appeal to the Cobb County State Court.

DISPOSITION

other

REMAND INSTRUCTIONS

The appeal was transferred to the Cobb County State Court for appropriate proceedings.

CASES CITED

- Handler v. Hulsey, 199 Ga. App. 751, 406 S.E.2d 225 (1991)
- Westwind Corp. v. Washington Fed. S. & L. Ass'n, 195 Ga. App. 411, 393 S.E.2d 479 (1990)
- Bosma v. Gunter, 258 Ga. 664, 665, 373 S.E.2d 368 (1988)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA,_____ November 29, 2016
The Court of Appeals hereby passes the following order: A17D0174. CANDELARIO ZAZUETA
v. MUPR 3 ASSETS, LLC. Candelario Zazueta filed this application for discretionary appeal
seeking review of an order entered by the Cobb County Magistrate Court on November 11, 2016,
in this dispossessory action.

However, “[t]he only avenue of appeal available from the magistrate court judgment is provided
by OCGA § 15-10-41 (b) (1), which allows for a de novo appeal to the state or superior court.”
Handler v. Hulsey, 199 Ga. App. 751 (406 SE2d 225) (1991). This Court thus may address
magistrate court matters only if they already have been reviewed by the state or superior court.

See Westwind Corp. v. Washington Fed. S & L Assn., 195 Ga. App. 411 (393 SE2d 479) (1990).
The Georgia Constitution provides that “[a]ny court shall transfer to the appropriate court in the
state any civil case in which it determines that jurisdiction or venue lies elsewhere.” Ga. Const. of
1983, Art. VI, Sec. I, Par. VIII; Bosma v. Gunter, 258 Ga. 664, 665 (373 SE2d 368) (1988).

Accordingly, this appeal is hereby TRANSFERRED to the Cobb County State Court. Court of
Appeals of the State of Georgia 11/29/2016 Clerk’s Office, Atlanta,_____ I
certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.,
Clerk.