

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Mayra Isabel Bustamante v. Erik Bustamante

No. 01-25-00625-CV · No. No. 01-25-00625-CV · Decided February 3, 2026

SUMMARY

The Texas Court of Appeals for the First District dismissed Mayra Isabel Bustamante’s appeal for lack of jurisdiction. The court held that an order granting a bill of review and vacating a prior judgment, without resolving the case on the merits, was neither a final judgment nor an appealable interlocutory order; the dismissal did not affect the right to appeal any eventual final judgment.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Per curiam; Chief Justice Adams; Justice Gunn; Justice Johnson
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	February 3, 2026
DOCKET	No. 01-25-00625-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant sought to appeal an order granting a bill of review that set aside and vacated a prior judgment. The court dismissed the appeal for lack of jurisdiction because the order was interlocutory and no statute authorized an interlocutory appeal.
STANDARD OF REVIEW	The court reviewed its appellate jurisdiction de novo under the final-judgment rule and statutory authorization for interlocutory appeals.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Mayra Isabel Bustamante v. Erik Bustamante

TOPICS

- appellate jurisdiction
- interlocutory appeal
- final judgment rule
- writ of certiorari
- appellate procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- family law

QUESTIONS PRESENTED

1. Whether the order granting the bill of review was a final, appealable judgment.
2. Whether a statute authorized an interlocutory appeal from the order granting the bill of review.
3. Whether the appeal could be dismissed without prejudice at appellant's request.

HOLDINGS

1. An order granting a bill of review that sets aside a prior judgment but does not dispose of all issues in the case on the merits is interlocutory and is not a final judgment appealable to the court of appeals.
2. An appeal from an interlocutory order granting a bill of review is not authorized by statute.
3. The court would not dismiss the appeal without prejudice to refiling under the circumstances presented.

KEY QUOTATIONS

“Generally, appellate courts have jurisdiction only over appeals from final judgments unless a statute authorizes an interlocutory appeal.” (at 1)

“A bill of review which sets aside a prior judgment but does not dispose of all the issues of the case on the merits is interlocutory in nature and not a final judgment appealable to the court of appeals or the supreme court.” (at 1)

“An appeal from an interlocutory order granting bill of review is not authorized by statute.” (at 2)

FACTUAL BACKGROUND

The trial court granted a bill of review and set aside its January 20, 2023 judgment, but the bill-of-review order did not resolve the underlying controversy on the merits. Mayra Isabel Bustamante attempted to appeal that order and later argued that mandamus was the proper vehicle for review.

PROCEDURAL HISTORY

The associate judge signed the bill-of-review order on February 20, 2025, and appellant asserted that the presiding district judge later adopted it. The order set aside the January 20, 2023 judgment but did not dispose of the underlying case on the merits. While the appeal was pending, appellant sought voluntary dismissal without prejudice and separately sought mandamus relief; the court denied mandamus and ultimately dismissed this appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- CMH Homes v. Perez, 340 S.W.3d 444, 447-48 (Tex. 2011)
- N.Y. Underwriters Ins. Co. v. Sanchez, 799 S.W.2d 677, 679-80 (Tex. 1990)
- Kiefer v. Touris, 197 S.W.3d 300, 302 (Tex. 2006) (per curiam)
- Tesoro Petroleum v. Smith, 796 S.W.2d 705, 705 (Tex. 1990) (per curiam)

- Patrick O'Connor & Associates, L.P. v. Wang Inv. Networks, Inc., No. 01-12-00615-CV, 2013 WL 1451358, at *1, *3 (Tex. App.—Houston [1st Dist.] Apr. 9, 2013, no pet.)
- Small v. Garcia, No. 01-18-00710-CV, 2019 WL 3293694, at *2 (Tex. App.—Houston [1st Dist.] July 23, 2019, no pet.)
- In re Mayra Isabel Bustamante, No. 01-25-00898-CV, 2025 WL 3165473, at *1 (Tex. App.—Houston [1st Dist.] Nov. 13, 2025, orig. proceeding) (mem. op.)
- Simpson v. City of San Antonio, No. 08-10-00229-CV, 2010 WL 3708850, at *1 (Tex. App.—El Paso Sept. 22, 2010, no pet.)

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