

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

Johnny Vasquez v. Sonia Sotello

Vasquez v. Sotello · No. 04-21-00215-CV · Decided September 16, 2021

SUMMARY

The Fourth Court of Appeals of Texas denied Johnny Vasquez’s motion for an emergency stay of a writ of possession arising from a county court judgment for possession of a manufactured home. The court held that the motion did not show compliance with Texas Property Code section 24.007, including the filing of a supersedeas bond within the required period, and denied relief without prejudice.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez; Luz Elena D. Chapa; Irene Rios
JURISDICTION	Texas
DECIDED	September 16, 2021
DOCKET	04-21-00215-CV
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Appellant appealed a county court judgment for possession of a manufactured home and moved for an emergency stay of a writ of possession pending appeal.
PRECEDENTIAL VALUE	published
PARTIES	Johnny Vasquez v. Sonia Sotello

TOPICS

- appellate procedure
- eviction
- landlord tenant
- civil procedure
- injunctions

PRACTICE AREAS

- appellate procedure
- landlord-tenant
- eviction
- remedies

QUESTIONS PRESENTED

1. Whether the court of appeals could stay the county court's judgment and writ of possession pending appeal without evidence that the appellant timely filed a supersedeas bond in the amount set by the

county court.

HOLDINGS

1. A county court judgment may not be stayed pending appeal unless, within ten days after the judgment is signed, the appellant files a supersedeas bond in an amount set by the county court. Because Vasquez's motion did not show compliance with that requirement, emergency relief was denied.

KEY QUOTATIONS

“A judgment of a county court may not under any circumstances be stayed pending appeal unless, within 10 days of the signing of the judgment, the appellant files a supersedeas bond in an amount set by the county court.” (order)

FACTUAL BACKGROUND

The appeal arose from a county court judgment awarding possession of a manufactured home. Vasquez sought emergency relief to stay a writ of possession while his appeal was pending, but his motion did not include the judgment or evidence that he had filed a supersedeas bond within the statutory period.

PROCEDURAL HISTORY

The County Court at Law No. 3 of Bexar County entered a May 19, 2021 judgment for possession of a manufactured home. Vasquez filed a notice of appeal on May 25, 2021, and, while the clerk's record had not yet been filed, sought an emergency stay of a writ of possession. The court of appeals denied the emergency motion without prejudice because the motion did not include the county court judgment or evidence of a timely supersedeas bond.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

None. The emergency motion was denied without prejudice to refiling a motion showing compliance with Texas Property Code section 24.007.

CASES CITED

- Marshall v. Hous. Auth. of City of San Antonio, 198 S.W.3d 782, 786 (Tex. 2006)