

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Brennan Short v. Jamie Short

No. 04-25-00450-CV (Tex. App.—San Antonio June 3, 2026) · No. 04-25-00450-CV · Decided June 3, 2026

SUMMARY

The Fourth Court of Appeals of Texas affirmed a divorce decree characterizing a Boerne property as the separate property of Jamie Short. The court held that testimony regarding the wife’s intent was admissible to rebut the presumption that a deed transferring a one-half interest to her husband was a gift. The court further held that sufficient evidence supported the finding that the deed was procured by fraud, duress, or mistake, and therefore did not reach the husband’s constitutional-takings argument.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Lori Massey Brissette; Rebeca C. Martinez, Chief Justice; Lori Massey Brissette, Justice; Velia J. Meza, Justice
JURISDICTION	Fourth Court of Appeals of Texas, San Antonio
DECIDED	June 3, 2026
DOCKET	04-25-00450-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Husband appealed a divorce decree characterizing the entire Boerne property as Wife's separate property, challenging the admission of Wife's testimony regarding her intent in signing a deed and the sufficiency and constitutionality of the trial court's property characterization.
STANDARD OF REVIEW	The trial court's determination that Wife overcame the gift presumption was reviewed for abuse of discretion, with the factual-sufficiency component reviewed under a heightened clear-and-convincing-evidence standard. The appellate court deferred to the trial court's credibility determinations and weighing of testimony.
PRECEDENTIAL VALUE	published
PARTIES	Brennan Short v. Jamie Short

TOPICS

dissolution of marriage

community property

family law procedure

standard of review

appellate procedure

PRACTICE AREAS

family law

marital property

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QUESTIONS PRESENTED

1. Whether the trial court improperly admitted Wife's testimony about her intent in executing the deed under the parol evidence rule.
2. Whether legally and factually sufficient evidence supported the trial court's finding that the deed did not make a gift of a one-half separate-property interest to Husband.
3. Whether the trial court unconstitutionally divested Husband of a separate-property interest by awarding the Boerne property to Wife.
4. Whether Wife waived any pleading objection concerning fraud, accident, or mistake because the issue was tried by consent.

HOLDINGS

1. The trial court did not err in admitting Wife's testimony. In a marital transfer, a deed of an interest in one spouse's property raises a presumption of gift, but the grantor spouse may rebut that presumption with evidence clearly establishing that no gift was intended. The parol evidence rule bars contrary testimony only when the deed expressly recites that the transferred one-half interest is the grantee spouse's separate property.
2. The evidence was sufficient to support the trial court's finding that the deed was not intended as a gift of a one-half interest to Husband and was procured by fraud, duress, or mistake. The trial court did not abuse its discretion in characterizing the entire Boerne property as Wife's separate property.
3. The court did not reach the constitutional divestiture issue because it affirmed the finding that Husband acquired no separate-property interest in the Boerne property through the deed.
4. The issue was tried by consent because Husband did not object in the trial court when the issue was tried.

KEY QUOTATIONS

"Only where the deed includes express recitals that the deeded one-half interest is to be the separate property of the grantee does the parol evidence rule apply to bar testimony to the contrary." (at 2)

"A trial court abuses its discretion when it acts arbitrarily or unreasonably or when it acts without reference to guiding principles." (at 4)

"A factual sufficiency challenge is not an independent ground for asserting error under the abuse of discretion standard but is a relevant factor in assessing whether the trial court abused its discretion." (at 4)

"Given the deference owed to the trial court as the sole arbiter of the credibility of the witnesses and the weight to be given their testimony, we hold the evidence is sufficient to support the trial court's finding that

the deed was not intended as a gift of a one half interest in the property to Husband but was procured by fraud, duress, or mistake.” (at 6)

FACTUAL BACKGROUND

Wife purchased the Boerne property in 2014, before the parties married in March 2017, making it presumptively her separate property. In 2020, the parties refinanced that property to pay the mortgage on property they had purchased together, and Wife executed a deed granting Husband a one-half interest so he could join the new mortgage. Wife testified that she did not intend to make a gift and agreed to the refinancing after pressure, threats, and volatile conduct by Husband. The trial court credited Wife's testimony and found the deed was not intended as a gift and that the property remained entirely Wife's separate property.

PROCEDURAL HISTORY

The parties divorced in the 57th Judicial District Court of Bexar County. The trial court found that the Boerne property, which Wife had purchased before marriage, remained entirely Wife's separate property despite a deed executed during the marriage granting Husband a stated one-half interest. Husband appealed, and the Fourth Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Kahn v. Kahn, 58 S.W. 825, 827 (Tex. 1900)
- In re J.Y.O., 709 S.W.3d 485, 493–97 (Tex. 2024)
- Raymond v. Raymond, 190 S.W.3d 77, 81 (Tex. App.—Houston [1st Dist.] 2005, no pet.)
- Cockerham v. Cockerham, 527 S.W.2d 162, 168 (Tex. 1975)
- Cameron v. Cameron, 641 S.W.2d 210, 213 (Tex. 1982)
- Eggemeyer v. Eggemeyer, 554 S.W.2d 137, 140 (Tex. 1977)
- Magness v. Magness, 241 S.W.3d 910, 912–13 (Tex. App.—Dallas 2007, pet. denied)
- Roberts v. Roberts, 999 S.W.2d 424, 431 (Tex. App.—El Paso 1999, no pet.)
- Motley v. Motley, 390 S.W.3d 689, 692 (Tex. App.—Dallas 2012, no pet.)
- Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241–42 (Tex. 1985)
- Moroch v. Collins, 174 S.W.3d 849, 857 (Tex. App.—Dallas 2005, pet. denied)
- In re J.F.C., 96 S.W.3d 256, 265–66 (Tex. 2002)
- In re C.H., 89 S.W.3d 17, 25 (Tex. 2002)
- In re Marriage of Moncey, 404 S.W.3d 701, 707 (Tex. App.—Texarkana 2013, no pet.)
- In re Marriage of Parker, 997 S.W.2d 833, 836 (Tex. App.—Texarkana 1999, pet. denied)
- In re M.G.G., 673 S.W.3d 363, 369 (Tex. App.—Corpus Christi–Edinburg 2023, no pet.)

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