

SUPREME COURT OF TEXAS

Brent Alan McLean v. Brad Livingston

486 S.W.3d 561 (Tex. 2016) · No. 15-0100 · Decided April 1, 2016

SUMMARY

The Supreme Court of Texas held that an inmate who files an appeal while claiming inability to pay costs must be given a reasonable opportunity to cure defects in the required Chapter 14 filings before the appeal is dismissed. The court relied on Texas Rule of Appellate Procedure 44.3 and precedent favoring correction of formal procedural defects. It reversed the court of appeals and remanded for consideration of the appeal's merits.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	April 1, 2016
DOCKET	15-0100
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of the dismissal of an inmate's appeal for failure to file the Chapter 14 affidavit or declaration of prior actions and certified inmate trust-account statement.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Texas
PARTIES	Brent Alan McLean v. Brad Livingston, et al.

TOPICS

appellate procedure civil procedure statutory interpretation pleadings

PRACTICE AREAS

civil procedure appellate procedure inmate litigation statutory interpretation

QUESTIONS PRESENTED

1. Whether a court of appeals must give an inmate a reasonable opportunity to amend appellate filings and cure missing or defective Chapter 14 filings before dismissing the appeal.

HOLDINGS

1. A court of appeals must afford an inmate a reasonable opportunity to amend appellate filings and cure Chapter 14 filing defects before dismissing the appeal.

KEY QUOTATIONS

“We hold that the court of appeals must allow the inmate an opportunity to amend his filings.” (486 S.W.3d at 561)

“Under Texas law, [a dismissal for failure to comply with section 14.004] may be corrected through an amended pleading, so a dismissal with prejudice is not appropriate.” (486 S.W.3d at 566)

“A court of appeals must not . . . dismiss an appeal for formal defects or irregularities in appellate procedure without allowing a reasonable time to correct or amend the defects or irregularities.” (486 S.W.3d at 566)

“Accordingly, we grant the petition for review, and without hearing oral argument, TEX. R. APP. P. 59.1, we reverse the court of appeals’ judgment and remand the case to the court of appeals for consideration of the merits.” (486 S.W.3d at 568)

FACTUAL BACKGROUND

Brent McLean, a state-prison inmate, filed suit seeking a declaratory judgment that he was eligible for mandatory release and that three Texas Department of Criminal Justice officials had failed to perform their duty to release him. He filed an affidavit of inability to pay costs with his notice of appeal but initially omitted the Chapter 14 declaration identifying prior pro se actions and the certified copy of his inmate trust-account statement. He later filed an amended notice of appeal containing both required documents.

PROCEDURAL HISTORY

McLean, a state-prison inmate, sued Texas Department of Criminal Justice officials seeking a declaratory judgment concerning his eligibility for mandatory release. The trial court granted the officials' plea to the jurisdiction. After McLean appealed and filed an affidavit of inability to pay costs, the Tenth Court of Appeals dismissed the appeal as frivolous because he had not filed the Chapter 14 declaration of prior actions or certified trust-account statement. McLean submitted an amended notice of appeal containing the required filings, but the court of appeals denied rehearing. The Supreme Court of Texas granted review, reversed, and remanded for consideration of the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Tenth Court of Appeals for consideration of the merits of McLean's appeal.

CASES CITED

- McLean v. Livingston, No. 10-14-00191-CV, 2014 WL 3559279 (Tex. App.—Waco July 17, 2014, no pet.)
- Ex parte N.C., 456 S.W.3d 358, 359-60 (Tex. App.—Waco 2015, pet. filed)
- Rodarte v. Beneficial Texas, Inc., No. 04-15-00647-CV, 2015 WL 8378362 (Tex. App.—San Antonio Dec. 9, 2015, pet. filed)
- Dunsmore v. Barrow, No. 14-15-00572-CV, 2015 WL 7258506 (Tex. App.—Houston [14th Dist.] Nov. 17, 2015, no pet.)
- Hill v. State, No. 07-15-00157-CV, 2015 WL 4148273 (Tex. App.—Amarillo July 9, 2015, no pet.)
- In re Jones, 464 S.W.3d 874, 874-75 (Tex. App.—Beaumont 2015, no pet.)
- Wilkerson v. Ramsey 1 Unit, No. 01-14-00790-CV, 2015 WL 1825802 (Tex. App.—Houston [1st Dist.] Apr. 21, 2015, no pet.)
- Frey v. Foster, No. 06-13-00086-CV, 2014 WL 1004494 (Tex. App.—Texarkana Mar. 14, 2014, pet. denied.)
- Frey v. Hendrix, No. 12-14-00322-CV, 2014 WL 5775195 (Tex. App.—Tyler Nov. 5, 2014, pet. denied.)
- Hickman v. Texas Department of Criminal Justice, No. 13-12-00437-CV, 2013 WL 3770916 (Tex. App.—Corpus Christi July 18, 2013, no pet.)
- Hickson v. Moya, 926 S.W.2d 397, 399 (Tex. App.—Waco 1996, no pet.)
- Peña v. McDowell, 201 S.W.3d 665, 665-66 (Tex. 2006) (per curiam)
- Higgins v. Randall County Sheriff's Office, 193 S.W.3d 898, 899 (Tex. 2006) (per curiam)
- Verburgt v. Dorner, 959 S.W.2d 615, 616 (Tex. 1997)
- Grand Prairie Independent School District v. S. Parts Imports, Inc., 813 S.W.2d 499, 500 (Tex. 1991) (per curiam)
- Warner v. Glass, 135 S.W.3d 681, 685 (Tex. 2004) (per curiam)