

COURT OF APPEALS OF TEXAS, SEVENTH DISTRICT AT AMARILLO

Richard A. Dunsmore v. The Office of State Counsel for Offenders and Rudolph Brothers, Jr., Director of SCFO

No. 07-17-00223-CV · No. No. 07-17-00223-CV · Decided July 26, 2017

SUMMARY

The Seventh District Court of Appeals of Texas dismissed Richard A. Dunsmore’s appeal for want of jurisdiction. The court held that an order transferring venue was neither a final judgment nor an immediately appealable interlocutory order, and that the cited venue statutes did not authorize an immediate appeal in this single-plaintiff case.

CASE DETAILS

COURT	Court of Appeals of Texas, Seventh District at Amarillo
WRITING FOR THE COURT	Per Curiam; Quinn, C.J.; Campbell, J.; Pirtle, J.
JURISDICTION	Texas
DECIDED	July 26, 2017
DOCKET	No. 07-17-00223-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se appeal from an order transferring venue from Lamb County to Brazoria County.
PRECEDENTIAL VALUE	published
PARTIES	Richard A. Dunsmore v. The Office of State Counsel for Offenders, Rudolph Brothers, Jr., Director of SCFO

TOPICS

[appellate jurisdiction](#)[interlocutory appeal](#)[venue](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

[civil procedure](#)[appellate jurisdiction](#)[venue](#)

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction to review immediately an interlocutory order transferring venue.

2. Whether Texas Civil Practice and Remedies Code sections 15.003 or 15.064(b) authorized an interlocutory appeal from the venue-transfer order.
3. Whether Dunsmore's motion for appointment of appellate counsel should be granted.

HOLDINGS

1. The court lacked jurisdiction because the venue-transfer order was neither a final judgment nor an appealable interlocutory order.
2. Section 15.003 did not apply because Dunsmore was the only plaintiff in the suit.
3. Section 15.064(b) did not authorize an interlocutory appeal; it provides for review of venue on appeal from the trial on the merits.
4. The motion for appointment of appellate counsel was denied.

KEY QUOTATIONS

“We have jurisdiction to consider immediate appeals of interlocutory orders only if a statute explicitly provides appellate jurisdiction.” (at 2)

“Here, the trial court’s order transferring venue is neither a final judgment, as it does not dispose of all parties and claims, nor an appealable order.” (at 2)

“Section 15.064(b) addresses the appeal of other venue determinations. It does not authorize an interlocutory appeal, but instead provides that “on appeal from the trial on the merits,” the appellate court shall consider the entire record in determining whether venue was proper and that improper venue is reversible error.” (at 3)

FACTUAL BACKGROUND

Dunsmore, the sole plaintiff, filed suit in Lamb County against the Office of State Counsel for Offenders and Rudolph Brothers, Jr. The trial court granted the appellees' motion to transfer venue from Lamb County to Brazoria County. Dunsmore attempted an immediate appeal of that venue-transfer order and argued that statutory provisions authorized interlocutory appellate review.

PROCEDURAL HISTORY

The 154th District Court of Lamb County entered an order transferring venue to Brazoria County. The court of appeals questioned its jurisdiction, notified Dunsmore that no final judgment or appealable order appeared to have been entered, denied his motion for appointment of appellate counsel, and dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001)

- Stary v. DeBord, 967 S.W.2d 352, 352-53 (Tex. 1998)

OPINION

PER CURIAM.

In The Court of Appeals Seventh District of Texas at Amarillo No. 07-17-00223-CV RICHARD A. DUNSMORE, APPELLANT V. THE OFFICE OF STATE COUNSEL FOR OFFENDERS AND RUDOLPH BROTHERS, JR., DIRECTOR OF SCFO, APPELLEES On Appeal from the 154th District Court Lamb County, Texas Trial Court No. DCV-19672-17, Honorable Felix Klein, Presiding July 26, 2017 MEMORANDUM OPINION Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ. Appellant, Richard A. Dunsmore, appearing pro se, attempts to appeal an order granting appellees' motion to transfer venue from Lamb County to Brazoria County.

Questioning whether we had jurisdiction, we notified Dunsmore by letter that it did not appear that a final judgment or appealable order had been entered in this case and directed him to show grounds for continuing the appeal or the appeal would be dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a). Dunsmore has filed a response asserting that we have jurisdiction to review the order under sections 15.003 and 15.064(b) of the Texas Civil Practice and Remedies Code and a motion for appointment of appellate counsel.

We deny the motion and dismiss the appeal for want of jurisdiction. Generally, appellate courts only have jurisdiction to review final judgments. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A judgment is final for purposes of appeal if it disposes of all pending parties and claims. *Id.* We have jurisdiction to consider immediate appeals of interlocutory orders only if a statute explicitly provides appellate jurisdiction.

Stary v. DeBord, 967 S.W.2d 352, 352-53 (Tex. 1998). Here, the trial court's order transferring venue is neither a final judgment, as it does not dispose of all parties and claims, nor an appealable order. See TEX. CIV. PRAC. & REM. CODE ANN. § 15.064(a) (West 2017) ("No interlocutory appeal shall lie from the [trial court's] determination [of venue]."); TEX. R. CIV.

P. 87(6). Although Dunsmore argues that sections 15.003 and 15.064(b) permit an interlocutory appeal, § 15.003 does not apply to this case and § 15.064(b) does not authorize an immediate appeal from the order. Section 15.003 concerns venue in suits with multiple plaintiffs. See TEX. CIV. PRAC. & REM. CODE ANN. § 15.003 (West 2017). It requires that each plaintiff independently establish proper venue, or the other items therein prescribed, and allows an interlocutory appeal from the trial court's determination of these issues.

Id. Because Dunsmore is the only plaintiff in this suit, this venue provision is inapplicable. Section 15.064(b) addresses the appeal of other venue determinations. It does not authorize an interlocutory appeal, but instead provides that "on appeal from the trial on the merits," the

appellate court shall consider the entire record in determining whether 2 venue was proper and that improper venue is reversible error.

See TEX. CIV. PRAC. & REM. CODE ANN. § 15.064(b) (emphasis added). Finding no statutory authority allowing immediate appeal, we lack jurisdiction to review and must dismiss the appeal. Accordingly, we deny Dunsmore's motion for appointment of appellate counsel and dismiss the appeal for want of jurisdiction. TEX. R. APP. P. 42.3(a). Per Curiam 3