

COURT OF APPEALS OF TEXAS, SECOND DISTRICT OF TEXAS, FORT
WORTH

Christopher Chad Bates v. Citibank (South Dakota) N.A.

No. 2-08-460-CV · No. No. 2-08-460-CV · Decided February 5, 2009

SUMMARY

The Texas Court of Appeals for the Second District dismissed Bates’s appeal for want of jurisdiction. The court held that the notice of appeal was filed after the applicable deadline and that Bates did not provide a reasonable explanation for the late filing.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District of Texas, Fort Worth
WRITING FOR THE COURT	Meier, J.; Cayce, C.J.; Livingston, J.
JURISDICTION	Texas
DECIDED	February 5, 2009
DOCKET	No. 2-08-460-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Bates appealed from a final summary judgment in favor of Citibank. The court of appeals dismissed the appeal for want of jurisdiction because the notice of appeal was filed late and Bates did not provide a reasonable explanation for the late filing.
STANDARD OF REVIEW	The court independently determined whether it had appellate jurisdiction based on the timeliness of the notice of appeal.
PRECEDENTIAL VALUE	Published memorandum opinion; no standard reporter citation appears in the source.
PARTIES	Christopher Chad Bates v. Citibank (South Dakota) N.A.

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal when the notice of appeal was filed after the applicable deadline and the appellant failed to provide a reasonable explanation for the delay.

HOLDINGS

1. The court lacked jurisdiction because Bates's notice of appeal was not timely filed and he did not provide a reasonable explanation that would permit the late filing to be accepted.

KEY QUOTATIONS

“We dismiss the appeal for want of jurisdiction.” (at 1)

“Accordingly, we dismiss the appeal for want of jurisdiction.” (at 2)

FACTUAL BACKGROUND

The trial court signed a final summary judgment in Citibank's favor on August 26, 2008. Bates timely filed a motion for new trial, but filed his notice of appeal on December 3, 2008, after the November 24, 2008 deadline. He did not respond to the appellate court's request for a reasonable explanation for the late filing.

PROCEDURAL HISTORY

The County Court at Law No. 3 of Tarrant County signed final summary judgment for Citibank on August 26, 2008. Bates timely filed a motion for new trial on September 16, 2008, making November 24, 2008 the deadline for his notice of appeal. He filed the notice on December 3, 2008. After the court notified him of the jurisdictional defect and allowed an opportunity to show a reasonable explanation for the delay, Bates filed no response.

DISPOSITION

dismissed

CASES CITED

- *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 2-08-460-CV
CHRISTOPHER CHAD BATES APPELLANT V. CITIBANK (SOUTH DAKOTA) N.A.
APPELLEE FROM COUNTY COURT AT LAW NO. 3 OF TARRANT COUNTY
MEMORANDUM OPINION 1 Appellant Christopher Chad Bates attempts to appeal from the trial court’s final summary judgment in favor of Appellee Citibank (South Dakota) N.A.

We dismiss the appeal for want of jurisdiction. The trial court's judgment was signed on August 26, 2008, and Bates timely filed a motion for new trial on September 16, 2008. Bates's notice of 1 ... See Tex. R. App. P. 47.4. appeal was therefore due on November 24, 2008, but it was not filed until December 3, 2008. See Tex. R. App. P. 26.1(a)(1).

On December 9, 2008, we notified Bates of our concern that this court may not have jurisdiction over the appeal and informed him that unless he or any party desiring to continue the appeal filed with the court a response showing a reasonable explanation for the late filing of the notice of appeal, this appeal would be dismissed for want of jurisdiction. See Tex. R. App.

P. 10.5(b), 26.3, 42.3; *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). We have received no response. Accordingly, we dismiss the appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f). PER CURIAM PANEL: MEIER, J.; CAYCE, C.J.; and LIVINGSTON, J. DELIVERED: February 5, 2009 2