



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-19-00415-CV

LORNE LEE CLARK, APPELLANT

V.

**CHRIS CATRON, INDIVIDUALLY AND AS THE FACILITY ADMINISTRATOR OF
THE TEXAS CIVIL COMMITMENT CENTER; DAVID BOWERS, INDIVIDUALLY
AND AS THE SECURITY DIRECTOR OF THE TEXAS CIVIL COMMITMENT
CENTER; AND AUDRA LIGHTFOOT, INDIVIDUALLY AND AS THE PROPERTY
ROOM SUPERVISOR OF THE TEXAS CIVIL COMMITMENT CENTER, APPELLEES**

**On Appeal from County Court
Lamb County, Texas
Trial Court No. CC-3363; Honorable James M. DeLoach, Presiding**

March 18, 2021

MEMORANDUM OPINION

Before QUINN, C.J., and PIRTLE and PARKER, JJ.

Appellant, Lorne Lee Clark, proceeding *pro se* and *in forma pauperis*, appeals an *Order of Dismissal* entered by the trial court in favor of Appellees, Chris Catron, David

Bowers, and Audra Lightfoot, (hereafter representatives), whom Clark sued in their individual capacities and in their official capacities as representatives of the Texas Civil Commitment Center. By two issues, Clark asserts the trial court erred (1) in dismissing his appeal from the justice court's *Order of Dismissal* and (2) in not liberally interpreting his pleadings by applying a less stringent review of his *pro se* filings. We reverse and remand.

BACKGROUND

On February 27, 2019, Clark filed suit against the representatives as a “small claims case” by filing a petition in the Justice Court of Precinct 3 of Lamb County, Texas. He alleged his personal property (consisting of a television, an X-Box 360 Game Console, and an MP4 Digital Player) was confiscated without due process of law and that the items were subsequently engraved for identification without his permission. In addition to money damages, he also sought a declaration that the representatives’ conduct violated his rights under certain policies of the Commitment Center, and under the Texas Government Code and the Texas Property Code.

As required by former Rule 502 of the Texas Rules of Civil Procedure, Clark filed a *Justice Court Civil Case Information Sheet*.¹ The form requires that a plaintiff name the defendant[s], select only one legal issue from various options, and select a procedure or remedy sought from various options. It also provides five options in Paragraph 4 for the amount of damages sought as follows:

¹ Repealed effective February 26, 2019. See Misc. Docket No. 19-9017. Clark filed his suit on February 27, 2019. Because this rule was repealed the day before Clark filed his suit, he was not required to file a *Civil Case Information Sheet*.

Less than \$100,000, including damages of any kind . . .
Less than \$100,000 and non-monetary relief
Over \$100,000 but not more than \$200,000
Over \$200,000 but not more than \$1,000,000
Over \$1,000,000.

On the *Information Sheet*, Clark named the three representatives as defendants, selected the legal issue as “Related to Criminal Matters, Seizure/Forfeiture,” indicated “Declaratory Judgment” as the remedy sought, and selected the option for “[o]ver \$1,000,000” for damages sought. In his written pleadings, however, entitled *Petition: Small Claims Case*, Clark only claimed damages in the amount of \$6,820, well under \$1,000,000. He also claimed \$650 as the value of the items that were confiscated. In his reply brief, Clark concedes those items were later returned.

By his petition, Clark identified the three representatives as employees of Wellpath Recovery Solutions, a private contractor providing services to the Texas Civil Commitment Office. He also sought recovery of “compensatory, nominal and punitive damages in the amount of 55.00 a day for each day [he] was denied his personal property.” He alleged he was without his property for 124 days. The amount per day multiplied by the number of days equals the \$6,820 he sought.

The representatives filed a general denial and asserted that “some or all of [Clark’s] claims may be barred by the Doctrine of Sovereign Immunity, Eleventh Amendment Immunity and/or Qualified Immunity.” Without further pleadings appearing of record, on May 7, 2019, the justice court entered an *Order of Dismissal* reciting it did not have jurisdiction over the matter.

Clark responded with a timely *Motion to Reinstate Under Texas Rules of Civil Procedure – 505.3(a)*. Rule 505.3(a) provides that a plaintiff whose case was dismissed may file a motion to reinstate no later than fourteen days after the dismissal order is signed. TEX. R. CIV. P. 505.3(a). Clark alleged the trial court had subject matter jurisdiction and that the representatives were not entitled to any immunity because they are private citizens employed by a private company.

The justice court did not rule on the motion to reinstate. On June 4, 2019, however, the Justice of the Peace for Precinct 3 of Lamb County signed a *Certificate of Transcript* certifying that Clark intended to appeal the dismissal to the County Court of Lamb County, whereupon the justice court filings were refiled with the Lamb County Clerk.

On *de novo* review, the Lamb County Court entered an *Order of Dismissal* on October 18, 2019, confirming a lack of jurisdiction over Clark's case. Clark appealed that order to this court.

STANDARD OF REVIEW

Whether a court has subject matter jurisdiction is a question of law that we review *de novo*. See *Harris County v. Annab*, 547 S.W.3d 609, 612 (Tex. 2018); *Tex. Dep't. of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004). Where the jurisdictional challenge is based on the amount in controversy, the plaintiff's pleadings are generally determinative unless the defendant specifically alleges and proves the amount was pleaded merely as a sham for the purpose of wrongfully obtaining jurisdiction or can readily establish that the amount in controversy does not fall within the court's

jurisdictional limits. See *Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 554-55 (Tex. 2000) (citing *Hoffman v. Cleburne Bldg. & Loan Ass'n*, 85 Tex. 409, 22 S.W. 154, 155 (1893)); *Salisbury v. Glasscock*, No. 07-96-0204-CV, 1997 Tex. App. LEXIS 2167, at *8-9 (Tex. App.—Amarillo April 24, 1997, no writ) (mem. op.). When a petition does not affirmatively demonstrate the absence of jurisdiction, the petition should be liberally construed in favor of jurisdiction. *Garza v. Chavarria*, 155 S.W.3d 252, 255 (Tex. App.—El Paso 2004, no pet.).

APPLICABLE LAW

A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. At the time Clark filed his suit, the amount in controversy was limited to \$10,000, excluding statutory interest and court costs but including attorney's fees, if any. See Act of May 26, 2019, 86th Leg., R.S., ch.696, § 32, 2019 Tex. Gen. Laws 1994, 1999 (increasing amount in controversy from \$10,000 to \$20,000, effective September 1, 2020) (current version at TEX. GOV'T CODE ANN. § 27.031 (West Supp. 2020)). TEX. R. CIV. P. 500.3.

When a case originally filed in justice court is appealed to the county court, the county court's appellate jurisdiction is restricted to the jurisdictional limit of the justice court because a county court has no jurisdiction over the appeal unless the justice court had jurisdiction. See *Crumpton v. Stevens*, 936 S.W.2d 473, 476 (Tex. App.—Fort Worth 1996, no writ). See also *Childress Oil Co. v. Wood*, 111 Tex. 165, 166, 230 S.W. 143 (1921) ("If the Justice Court is without jurisdiction there can be no jurisdiction in the County Court. While the case is tried *de novo* in the County Court, its power is not original. The

case is there only in virtue of the appeal. With this true, its power to determine it on the appeal cannot exist if the original tribunal had no power to consider it.”).

ANALYSIS

Clark presents two issues here. First, he asserts the trial court erroneously dismissed his suit. Second, he contends the trial court failed to liberally construe his pleading.²

In the jurisdictional context, the “amount in controversy” means “the sum of money or the value of the thing originally sued for” *United Servs. Auto Ass’n v. Brite*, 215 S.W.3d 400, 402 (Tex. 2007). Jurisdiction is determined by the amount in controversy at the time of the filing of the pleadings. *Id.* at 402-03.

Clark alleged in his petition damages in the amount of \$6,820, within the justice court’s jurisdictional limit of \$10,000. In their *Original Answer*, the representatives did not assert that the amount pleaded by Clark was a sham to wrongfully obtain jurisdiction. *Blue*, 34 S.W.3d at 554. Instead, on appeal, they argue consistently and mistakenly that Clark sought damages in excess of \$10,000. In their brief, they reference page thirteen of the clerk’s record where the *Justice Court Civil Case Information Sheet* reflects that Clark selected “[o]ver \$1,000,000” as damages. While his selection was likely a scrivener’s error, we must keep in mind that the *Justice Court Civil Case Information*

² In his original brief and his reply brief, Clark contends he sought \$3,000 damages against each representative for a total of \$9,000, an amount within the justice court’s jurisdictional limit. It is unclear where Clark conceived the \$3,000 amount. The record before us contains only the one original petition in which \$6,820 is handwritten in the space for the amount of damages sought.

Sheet is an administrative tool, not a substitute for or a supplement to actual pleadings. In other words, it is for administrative purposes and it is not a jurisdictional pleading.

The representatives also disingenuously recite that the “express language of [Clark’s] Original Petition” seeks damages in excess of \$10,000, when, in fact, Clark’s *Petition: Small Claims Case* appearing on page fourteen of the clerk’s record reflects that he sought \$6,820 in damages, which were within the justice court’s jurisdictional limit. Thus, it was error for the trial court to dismiss Clark’s case with prejudice for want of jurisdiction. Clark’s first issue is sustained.

Our disposition of Clark’s first issue did not require a liberal interpretation of his pleadings due to his *pro se* status. It was explicit that he pleaded damages in the amount of \$6,820, which was under the \$10,000 jurisdictional limit. Consequently, issue two is pretermitted. TEX. R. APP. P. 47.1.

CONCLUSION

The county court’s *Order of Dismissal* is reversed and the cause is remanded for further consideration.

Patrick A. Pirtle
Justice