

DENY and Opinion Filed March 7, 2016



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-15-01006-CV

**IN RE THE GUARDIANSHIP OF SYDNEY AYN LAROE,
AN INCAPACITATED PERSON**

**On Appeal from the Probate Court No. 1
Dallas County, Texas
Trial Court Cause No. PR-09-3185-1**

**MEMORANDUM OPINION ON MOTION TO SUSPEND
ENFORCEMENT OF JUDGMENT**

Before Chief Justice Wright and Justices Lang-Miers and Stoddart
Opinion by Chief Justice Wright

Appellant appeals from two May 19, 2015 orders continuing the appointment of appellee as guardian of Sydney Ayn Laroe (“Sydney”) and vacating previous provisions in an agreed order relating to her access and possession of Sydney. Appellant filed a motion with the trial court to suspend enforcement of the judgment. The trial court denied the motion on October 15, 2015. Appellant has filed a motion with this Court seeking an independent review of its motion to suspend enforcement of the judgment or, alternatively, review of the trial court’s order denying its motion. We deny appellant’s motion and also affirm the trial court’s October 15, 2015 order denying appellant’s motion.

With regard to suspending a judgment involving custody or conservatorship, rule 24.2(a)(4) provides:

When the judgment involves the conservatorship or custody of a minor or other person under legal disability, enforcement of the judgment will not be suspended,

with or without security, unless ordered by the trial court. But upon a proper showing, the appellate court may suspend enforcement of the judgment with or without security.

TEX. R. APP. P. 24.2(a)(4). We may review a trial court's determination whether to permit suspension of enforcement. *See* TEX. R. APP. P. 24.4(a)(4). We review the trial court's order denying a motion to suspend enforcement of a judgment involving custody for an abuse of discretion. *See McGee v. Ponthieu*, 634 S.W.2d 780, 782 (Tex. App.—Amarillo 1982, orig. proceeding).

Appellant primarily complains about the trial court's removal of the provisions from the 2010 agreed order that specified her rights of custody and access to Sydney. Although appellant contends she made the required proper showing "by presenting undisputed evidence that reinstating the 2010 Agreed Order would protect [her] interests, pose no threat to Sydney, and would, in fact, be in Sydney's best interest," appellant did not put on *any* evidence at the hearing on the motion to suspend the judgment. Instead, appellant relied solely on testimony from the trial - the testimony that led the trial court to enter the very orders appellant seeks to suspend. In rendering those orders, the trial court heard that testimony and observed the demeanor of the witnesses. Under these circumstances, we conclude the trial court did not abuse its discretion in denying appellant's motion to suspend and likewise conclude that appellant has failed to make a proper showing in this Court to support suspending the judgment. *See* TEX. R. APP. P. 24.2(a)(4), 24.4(a)(4); *McGee*, 634 S.W.2d at 782.

We deny appellant's motion.

151006NF.P05

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE