

VACATE and DISMISS; and Opinion Filed March 19, 2019.



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

No. 05-18-01467-CV

**DWAN MILLIGAN AND ALL OCCUPANTS, Appellants
V.
HP TEXAS I LLC, Appellee**

**On Appeal from the County Court at Law No. 5
Collin County, Texas
Trial Court Cause No. 005-03165-2018**

MEMORANDUM OPINION

Before Justices Brown, Schenck, and Pedersen, III
Opinion by Justice Brown

This is an appeal from an eviction suit initiated in justice court by HP Texas I LLC against Dwan Milligan and all occupants of a certain residence in Frisco, Texas. As reflected in the record, the justice court rendered judgment in favor of HP on October 18, 2018, and Milligan appealed to the county court on October 24, 2018. The county court also rendered judgment in favor of HP, and Milligan filed this appeal the following day.

Because an appeal from a justice court judgment in an eviction case must be filed no later than five days after the judgment is signed and Milligan filed his appeal six days later, we questioned the county court's jurisdiction over Milligan's appeal and, in turn, our jurisdiction. *See* TEX. R. CIV. P. 510.9(a) (deadline for appealing justice court judgment in eviction case); *Wetsel v. Fort Worth Brake, Clutch, and Equip., Inc.*, 780 S.W.2d 952, 954 (Tex. App.—Fort Worth 1989,

no writ) (untimely appeal from justice court deprives county court of jurisdiction to review justice court's judgment); *First State Bank & Trust Co. of Port Lavaca v. Vector Corp.*, 427 S.W.2d 958, 960 (Tex. Civ. App.—Waco 1968, writ ref'd n.r.e.) (appellate court jurisdiction extends no further than trial court's). We directed Milligan to file a letter brief addressing our concern, but more than ten days have passed, and Milligan has not responded.

When, as here, the trial court lacked jurisdiction, we must set aside the judgment and dismiss the cause. *See Dallas Cty. Appraisal Dist. v. Funds Recovery, Inc.*, 887 S.W.2d 465, 468 (Tex. App.—Dallas 1994, writ denied). Accordingly, we vacate the county court's judgment and dismiss the cause. *See id.*

/Ada Brown/
ADA BROWN
JUSTICE

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

JUDGMENT

DWAN MILLIGAN AND ALL
OCCUPANTS, Appellants

No. 05-18-01467-CV V.

HP TEXAS I LLC, Appellee

On Appeal from the County Court at Law
No. 5, Collin County, Texas
Trial Court Cause No. 005-03165-2018.
Opinion delivered by Justice Brown,
Justices Schenck and Pedersen, III
participating.

In accordance with this Court's opinion of this date, we **VACATE** the county court's judgment and **DISMISS** the cause.

Judgment entered this 19th day of March 2019.