

Dismissed and Memorandum Opinion filed September 7, 2017.



In The

Fourteenth Court of Appeals

NO. 14-16-00727-CV

HARVELLA JONES, Appellant

V.

JONATHAN ANDERSON, Appellee

**On Appeal from the County Court at Law No. 2
Fort Bend County, Texas
Trial Court Cause No. 14-CCV-052079**

M E M O R A N D U M O P I N I O N

This is an attempted appeal from (a) an order signed April 12, 2016, by the Honorable Olen Underwood, Presiding Judge, Second Administrative Judicial Region of Texas, denying Plaintiff Harvella Jones's motion to recuse the Honorable Jeffery McMeans; and (b) the "Order Granting Defendant Jonathan Anderson's Motion to Declare Plaintiff Harvella Jones a Vexatious Litigant," signed August 16, 2016.

I. Appeal of the April 12, 2016 Denial of Jones’s Motion to Recuse

The record shows that the parties in Cause No. 14-CCV-052079 were plaintiff Harvella Jones and nine defendants: Thi “Nina” Tran, James H. Leeland, Marc D. Markel, Clayton R. Hearn, Amy M. VanHoose, Dawn S. Holiday, Jonathan Anderson, Clinton Faver Brown, and Roberts Markel Weinberg Butler Hailey, PC, a/k/a Roberts Markel Weinberg PC a/k/a Roberts Markel Guerri, PC (“Roberts Markel”). Jones filed a motion to recuse the trial judge, the Honorable Jeffery McMeans, but Judge McMeans declined to recuse himself. The motion was referred to the Honorable Olen Underwood, Presiding Judge of the Second Administrative Region, who denied the motion on April 12, 2016.

By order signed April 19, 2016 in Cause No. 14-CCV-052079, the trial court ordered that Jones take nothing by her claims against defendants Tran and Leeland; severed those claims from the remainder of the suit; and redocketed those claims under Cause No. 14-CCV-052079-A. By order nunc pro tunc signed May 3, 2016, the trial court changed the cause number of the redocketed claims against Tran and Leeland to 16-CCV-057239.

The remaining defendants in Cause No. 14-CCV-052079—Markel, Hearn, VanHoose, Holiday, Anderson, Brown, and Roberts Markel (collectively, “RMWBH”)—had filed a motion to dismiss and to sever the claims against them on April 13, 2016.¹ By order signed April 19, 2016, the trial court granted the motion,

¹ The individual defendants Markel, Hearn, VanHoose, Holiday, Brown, and Anderson are attorneys, each of whom was said to be a current or former employee of the Roberts Markel law firm. The term “RMWBH,” which corresponds to the law firm’s name of Roberts Markel Weinberg Butler Hailey, PC, was defined in the motion for dismissal and severance, and in the trial court’s order granting the motion, to refer collectively to Markel, Hearn, VanHoose, Holiday, Brown, Anderson, and the Roberts Markel law firm.

severed all claims against RMWBH into Cause No. 14-CCV-052079-B, and dismissed the claims with prejudice.

Together, the trial court's orders of April 19, 2016 constitute a final judgment disposing of all claims and all parties in Cause No. 14-CCV-052079.

On April 25, 2016, Jones timely appealed (1) the two April 19, 2016, orders severing and dismissing with prejudice her claims against all defendants; and (2) the April 12, 2016, order denying her motion to recuse. On May 2, 2016, Jones moved to withdraw the appeal, and we accordingly dismissed the appeal at Jones's request. *See Jones v. Tran*, No. 14-16-00339-CV, 2016 WL 3223719, *1 (Tex. App.—Houston [14th Dist.] June 9, 2016, no pet.) (per curiam) (mem. op.). Our plenary power to review the denial of Jones's recusal motion expired sixty days later, on August 8, 2016. *See* TEX. R. APP. P. 19.1.

We accordingly lack jurisdiction over Jones's untimely attempt to appeal the order of April 12, 2016, a second time.

II. Appeal of the August 16, 2016 Order Granting Anderson's Motion to Declare Jones a Vexatious Litigant

As explained above, the final judgment rendered in Cause No. 14-CCV-052079 on April 19, 2016 dismissed all of Jones's claims with prejudice. In the absence of an appropriate post-judgment motion extending the trial court's plenary power, the trial court has jurisdiction to grant a new trial or to vacate, modify, correct, or reform the judgment only within thirty days of the final judgment. The record does not show that a timely motion was filed extending the trial court's plenary power in Cause No. 14-CCV-052079 beyond May 19, 2016. *See* TEX. R. CIV. P. 329b(d) (absent a motion extending the trial court's plenary power, the power extends for only thirty days after the judgment is signed). Thus, the trial court's order of August 16, 2016, purporting to grant Anderson's motion to declare Jones a

vexatious litigant is void for want of jurisdiction. We lack jurisdiction to review the merits of a void order. *See Jefferson v. Unity Nat'l Bank*, No. 14-14-00197-CV, 2015 WL 1779254, at *2 (Tex. App.—Houston [14th Dist.] Apr. 16, 2015, no pet.) (mem. op.) (citing *Waite v. Waite*, 150 S.W.3d 797, 800 (Tex. App.—Houston [14th Dist.] 2004, pet. denied)).

III. Conclusion

Pursuant to Texas Rule of Appellate Procedure 42.3(a), we advised Jones on August 14, 2017 that unless a response was filed within ten days demonstrating grounds for continuing the appeal, we would dismiss the appeal for want of jurisdiction. Because no response was filed demonstrating our jurisdiction to review the merits of the orders at issue, we declare void the trial court's order of August 16, 2016 purporting to grant Jonathan Anderson's motion to declare Harvella Jones a vexatious litigant, and we dismiss the appeal for want of jurisdiction.

/s/ Tracy Christopher
Justice

Panel consists of Justices Christopher, Brown, and Wise.