

NO. 07-11-00261-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
AUGUST 2, 2011

TERRY R. STREUER, APPELLANT

v.

PSZ FINANCIAL, LLC, APPELLEE

FROM THE COUNTY COURT AT LAW #2 OF COMAL COUNTY;
NO. 2011CVB0205; HONORABLE CHARLES A. STEPHENS II, JUDGE

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

ORDER

Appellant, Terry R. Streuer, appeals a judgment in a forcible entry and detainer action which ordered that PSZ Financial, LLC, is entitled to possession of a property in New Braunfels, Texas. On May 24, 2011, Streuer timely filed his notice of appeal in the trial court. On June 3, Streuer filed an affidavit of indigence with the 3rd District Court of Appeals. On or about July 1, the appeal was transferred to this Court. On July 12, this Court sent the trial court clerk and reporter notice that Streuer had filed his affidavit of indigence, and directed them to file any contest to Streuer's affidavit by July 22.

On July 22, this Court received a contest of Streuer's affidavit filed by the official court reporter. However, this contest indicates that Streuer had already paid for the reporter's record. Also, the reporter's record was received and filed by the Clerk of this Court on July 22. Thus, it does not appear that the reporter is affected by Streuer's affidavit. As such, we deny the reporter's contest as moot.

On July 28, this Court received a contest of Streuer's affidavit filed by the County Clerk. While this contest identifies a potential issue regarding the case to which the affidavit was intended to apply,¹ this Court's correspondence of July 12, clearly indicated that the affidavit was construed by this Court to apply to the present appeal. Regardless of any merit to the County Clerk's contentions contained in the contest, it was untimely filed, and, as such, we are required to deem the allegations in Streuer's affidavit true and order that Streuer be allowed to proceed without advance payment of costs. TEX. R. APP. P. 20.1(e).

As such, this Court orders the County Clerk of Comal County to prepare the clerk's record in this appeal without advance payment of costs. The clerk's record was due on July 18, 2011. However, the Court will *sua sponte* grant a 30 day extension. See TEX. R. APP. P. 2. The clerk's record in this appeal is due on or before August 17, 2011.

Per Curiam

¹ It appears that Streuer has a case pending in the 207th District Court in addition to the present appeal from judgment in County Court at Law, No. 2, of Comal County.