



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

No. 07-16-00065-CV

**IN THE MATTER OF THE MARRIAGE OF JOVITA ALEXANDRA LUNA
AND JOSE PABLO VICENTE LUNA
AND IN THE INTEREST OF D.L., A DISABLED CHILD**

On Appeal from the 140th District Court
Lubbock County, Texas
Trial Court No. 2014-512,471, Honorable Cecil G. Puryear, Presiding

July 15, 2016

ORDER OF ABATEMENT AND REMAND

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

On July 11, 2016, appellant, Jose Pablo Vicente Luna, filed with this Court an Emergency Motion to Suspend Enforcement of the Decree of Divorce Pending Appeal. By this motion, Jose “seeks to stay all enforcement actions transferring any real property and paying spousal maintenance in this case until this Court has decided his appeal.” By this motion, Jose seeks to suspend enforcement of a judgment for recovery of money (spousal maintenance) and property (transfer of real property). According to Rule 24.2(a)(1) of the Texas Rules of Appellate Procedure, when the judgment is for the recovery of money, the amount of security must equal the sum of compensatory damages awarded in the judgment, interest for the estimated duration of the appeal,

and costs awarded in the judgment. TEX. R. APP. P. 24.2(a)(1). According to Rule 24.2(a)(2) of the Texas Rules of Appellate Procedure, when the judgment is for the recovery of an interest in real or personal property, the trial court will determine the type and amount of security. TEX. R. APP. P. 24.2(a)(2). As such, we now abate this appeal and remand the cause to the trial court for further proceedings as necessary to set the appropriate type and amount of security under Rule 24.2.

Upon remand, the trial court shall enter an order setting the type and amount of security that Jose must post to suspend enforcement of the trial court's divorce decree while the appeal remains pending before this Court. *See id.* The trial court shall cause a supplemental clerk's record to be developed containing its order setting bond, deposit, or security, as well as any other orders issued relating to this matter. The trial court shall then ensure that this supplemental clerk's record be filed with the Clerk of this Court on or before August 15, 2016.

If it is necessary to hold a hearing to determine this issue, the trial court shall immediately cause notice of the hearing to be given and shall conduct the hearing as soon as practicable. If a hearing is held, the trial court shall cause the hearing to be transcribed and cause a reporter's record to be developed containing the transcription of any evidence and arguments presented at the hearing. The trial court shall then file any supplemental reporter's record with the Clerk of this Court on or before August 15, 2016.

It is so ordered.

Per Curiam