

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00438-CV

Vincent Wrencher, Sr., Appellant

v.

The State of Texas and the City of Austin, Texas, Appellees

**FROM COUNTY COURT AT LAW NO. 8 OF TRAVIS COUNTY
NO. C-1-CR-14-100040, HONORABLE CARLOS HUMBERTO BARRERA, JUDGE PRESIDING**

MEMORANDUM OPINION

Vincent Wrencher, Sr., appearing *pro se*, appeals from the order of Travis County Court at Law No. 8 dismissing his appeal for want of jurisdiction. Wrencher was attempting to appeal from the judgment of the Austin Municipal Court of Record. That court had concluded that Wrencher’s pet, “Skip,” was a “dangerous dog.” Appellees are Travis County and the City of Austin (the State). We will reverse the order.

In 2013, while “outside an enclosure,” Skip bit a bicyclist. After an evidentiary hearing, the Travis County Animal Control department determined that Skip was a “dangerous dog.”¹ Wrencher appealed that determination to the Austin Municipal Court of Record. In May 2014, after hearing, the municipal court rendered judgment affirming the “dangerous dog”

¹ See Tex. Health & Safety Code § 822.041(2) (defining “dangerous dog”).

determination. Wrencher then attempted to take an appeal from that judgment to Travis County Court at Law No. 8.

In response to the State’s joint motion, the court dismissed Wrencher’s appeal, concluding that there was no statutory authority for the appeal to county courts at law from civil “dangerous dog” judgments of the municipal courts of record.

At times material, Texas Health and Safety Code sections 822.0421(b) and 822.0423(d) authorized an appeal from a “dangerous dog” determination; those sections provided that the owner of the claimed dangerous dog may appeal the decision of the municipal court in the manner provided for the appeal of other cases from the municipal court. *See* Act of May 5, 1997, 75th Leg., R.S., ch. 99, § 2, secs. 822.0421, .0423, 1997 Tex. Gen. Laws 188, 190–91.² At that time, two statutes set forth the manner in which other cases were appealed from the municipal court: the Code of Criminal Procedure and the Government Code. *See* Tex. Code Crim. Proc. art. 44.02; Tex. Gov’t Code § 30.00014(a); *In re Loban*, 243 S.W.3d 827, 830 (Tex. App.—Fort Worth 2008) (orig. proceeding).

Article 44.02 affords a defendant the right to appeal from a criminal conviction. However, because the “dangerous dog” determination of the municipal court is a civil judgment

² Effective September 1, 2015, Texas Health and Safety Code section 822.0424 specifically authorizes an appeal to the county court or county court at law of a “dangerous dog” judgment pursuant to section 822.0421(d) and section 822.0423. *See* Act of May 22, 2015, 84th Leg., R.S., ch. 530, § 2, sec. 822.0424, 2015 Tex. Gen. Laws 1909, 1910 (codified at Tex. Health & Safety Code § 822.0424). This statute was not in effect when the municipal court rendered its judgment nor when the county court at law dismissed Wrencher’s appeal. *See id.* § 6 (setting effective date as Sept. 1, 2015). The State suggests that in enacting section 822.0424, the legislature recognized that before its enactment, there existed no appeal from a “dangerous dog” determination beyond municipal court.

rather than a criminal conviction, it does not provide Wrencher the right to appeal to the county court of law. *See Timmons v. Pecorino*, 977 S.W.2d 603, 605 (Tex. Crim. App. 1998).

The government code furnishes a defendant the right to appeal “from a judgment or conviction of a municipal court of record.” Texas Government Code section 30.00014 provides in pertinent part:

(a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record. The state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. The county criminal courts or county criminal courts of appeal in the county in which the municipality is located or the municipal courts of appeal have jurisdiction of appeals from a municipal court of record. If there is no county criminal court, county criminal court of appeal, or municipal court of appeal, the county courts at law have jurisdiction of an appeal.

Tex. Gov’t Code § 30.00014(a).

The State argues that the language of section 30.00014(a) contemplates only appeals from criminal cases originating in municipal courts of record. In support of its position, the State points to language in the first sentence: a “defendant” has the right to appeal from a “conviction” in the municipal court of record.

This Court agrees that section 30.00014(a) affords a criminal defendant an appeal from a conviction rendered in a municipal court of record, but we are convinced that it also affords a civil defendant an appeal. A “defendant” is, of course, a person against whom a civil or criminal action is brought. Section 30.00014(a) recognizes that a defendant has an appeal from “a judgment *or* a conviction” of a municipal court of record—two classes of judicial decisions. *See id.* (emphasis added). The word, “conviction” almost universally refers to a judicial decision in a criminal matter, whereas “judgment” commonly refers to a judicial decision in a civil case.

The Fort Worth Court recognized that section 30.00014(a) affords a defendant the right to appeal from the civil decision of the municipal court of record. *See In re Loban*, 243 S.W.3d at 830. In *Loban*, neither the Tarrant County criminal court nor the Tarrant County court at law would exercise jurisdiction of an appeal from a “dangerous dog” judgment of the municipal court of record. The relators sought a writ of mandamus from the Fort Worth Court commanding the county court at law to exercise jurisdiction over the appeal.

The appellate court concluded that section 30.00014(a) provided an appeal from the “dangerous dog” judgment of the municipal court to the Tarrant County criminal court. Unfortunately for the relators, however, Texas Government Code section 25.2223(a) specifically provides that Tarrant County criminal courts have no civil jurisdiction. And because Tarrant County had county criminal courts, the Tarrant County court at law did not acquire jurisdiction over Loban’s appeal. *See id.*

At times material, Travis County had eight statutory county courts, including County Court at Law Number 8. *See* Tex. Gov’t Code § 25.2291. Each court had civil and criminal jurisdiction, *see id.* § 25.0003, although County Court at Law Number 8 was directed to give preference to criminal cases, *see id.* § 25.2292(n). Because Travis County has no county criminal courts, its county courts at law have jurisdiction of Wrencher’s appeal. *See id.* § 30.00014(a).

We reverse the court’s order and remand the cause for further proceedings.

Bob E. Shannon, Justice

Before Chief Justice Rose, Justices Field and Shannon*

Reversed and Remanded

Filed: June 16, 2017

* Before Bob E. Shannon, Chief Justice (retired), Third Court of Appeals, sitting by assignment.
See Tex. Gov't Code § 74.003(b).