



**COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON**

ORDER

Appellate case name: Nicia Vitorino, as Assignee of William Calledare v. Post Oak Crossing Council of Co-Owners

Appellate case number: 01-24-00717-CV

Trial court case number: 2022-39990

Trial court: 151st District Court of Harris County

On September 23, 2024, appellant, Nicia Vitorino, as assignee of William Calledare, proceeding pro se, filed a notice of appeal from the trial court's September 10, 2024 "Final Order Grating Summary Judgment on Behalf of [Appellee] Post Oak Crossing Council of Co-Owners." Prior to the appellate record being completed, on October 10, 2024, appellant filed, in this Court, a "Motion for Temporary Restraining Order, [and] Temporary and Permanent Injunctions."

In her motion, appellant requests that this Court grant her injunctive relief pursuant to Chapter 65 of the Texas Civil Practices and Remedies Code. Specifically, appellant states that she "seeks to stay wrongful eviction proceedings" by appellee and requests "an immediate Temporary Restraining Order (TRO) on an ex parte basis to prevent imminent and irreparable damages" to appellant.

According to appellant's motion, the underlying suit here involves a "[p]ending [w]rongful [f]oreclosure" action related to certain property located at "1818 Augusta Dr[.], No. 20 . . . a condominium unit part of Post Oak Crossing Council of Co-Owners." Additionally, however, according to appellant's motion, that same property was also subject to a forcible detainer action, and in which the County Civil Court at Law No. 3 entered a judgment in favor of appellee on October 1, 2024, and set a \$10,500 bond to suspend enforcement of the judgment pending appeal.

In her motion to this Court, appellant requests that we enter a temporary restraining order "to maintain and restore the status quo with respect to her rights in the Property so that the Court can decide if [appellant] is entitled to the relief she is seeking in the [t]rial [c]ourt." Appellant further seeks a temporary and permanent injunction.

Appellant’s motion seeks this injunctive relief “in accordance with the Texas Rules of Civil Procedure and [C]hapter 65 of the Texas Civil Practice and Remedies Code.” However, appellant’s motion fails to establish that this Court has the authority to grant the relief requested by appellant pursuant to the cited authority.

To this end, the authority of an intermediate appellate court, such as this Court, to grant injunctive relief is limited by statute. *See* TEX. GOV’T CODE ANN. § 22.221 (titled “Writ Power”). Generally, an intermediate appellate court may only issue a writ of injunction as “necessary to enforce the jurisdiction of the court.” *See* TEX. GOV’T CODE ANN. § 22.221(a); *see also In re Olson*, 252 S.W.3d 747, 747 (Tex. App.—Houston [14th Dist.] 2008, orig. proceeding) (“The purpose of a writ of injunction is to enforce or protect the appellate court’s jurisdiction.”). Further, an appellate court may only issue a writ of injunction to “control, limit, or prevent an action in a court of inferior jurisdiction.” *In re Olson*, 252 S.W.3d at 747; *see also* TEX. GOV’T CODE ANN. § 22.221(b)(1) (appellate courts may issue writs “against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district”).

Because appellee is not a court as defined by the Government Code, we may not issue a writ of injunction, in the form of a temporary restraining order, against appellee unless it is necessary to enforce our jurisdiction. Appellant’s motion does not reflect that this Court’s jurisdiction is challenged. Accordingly, appellant’s “Motion for Temporary Restraining Order, [and] Temporary and Permanent Injunctions” is **denied**.

Further, to the extent appellant’s motion seeks “to stay wrongful eviction proceedings” by appellee, such a “stay,” or suspension of enforcement of a trial court’s judgment pending appeal, is effectuated by posting security as set by the trial court. *See* TEX. R. APP. P. 24.1(a) (allowing judgment debtors to suspend enforcement by written agreement with the judgment creditor, by filing a bond, or by making a deposit with the trial court in lieu of a bond).

Here, there is no indication in the appellate record that appellants have paid a supersedeas bond set by the trial court or made a deposit in lieu of a bond. We note that the trial court’s judgment does not set any bond for suspending enforcement of the judgment pending appeal. However, suspension of a judgment pending appeal requires the judgment debtor to comply with the supersedeas requirements set out in Texas Rule of Appellate Procedure 24.

It is so ORDERED.

Judge’s signature: /s/ Amparo Monique Guerra
 Acting individually Acting for the Court

Date: October 17, 2024