

Granted and Opinion Filed August 27, 2025



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-24-00809-CV

IN RE THE MATTER OF BONNIE ELIZABETH PARKER

On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-22-02516-B

MEMORANDUM OPINION AND ORDER ON RULE 24.4 MOTION

Before Chief Justice Koch, Justice Goldstein, and Justice Garcia
Opinion by Chief Justice Koch

Before the Court is appellant Crown Hill Memorial Park & Mausoleum's Amended Emergency Motion of Relator to Stay Enforcement of Judgment Pending Appeal and Request to Waive Bond. By order dated August 15, 2024, we construed Crown Hill's motion as a combined emergency motion for a stay and a rule 24.4 motion to review the trial court's July 18, 2024 Order Denying Respondent's Emergency Motion to Stay Enforcement of Judgment Pending Appeal, requested a response to the motion, and granted an emergency stay of enforcement of the judgment. Crown Hill contends that it has a right to supersede the judgment pending appeal and that a bond is unnecessary in this case. Alternatively, Crown Hill offered nominal security in the amount of \$1,000.

For the reasons set forth herein, we grant Crown Hill’s motion, reverse the trial court’s July 18, 2024 order, set the amount of security at \$0, and stay enforcement of the judgment pending the disposition of this appeal.

BACKGROUND

This appeal concerns the remains of Bonnie Elizabeth Parker, the “Bonnie” of “Bonnie and Clyde.” Bonnie’s remains are currently interred at Crown Hill Memorial Park & Mausoleum, Inc. in a family plot purchased by Bonnie’s sister.

In May 2022, Rhea Leen Linder filed an Original Petition for Removal and Reinterment of Remains Pursuant to Section 711.004 of the Texas Health and Safety Code, naming Crown Hill a respondent. Section 711.004(a) provides as follows:

Remains interred in a cemetery may be removed from a plot in the cemetery with the written consent of the cemetery organization operating the cemetery and the written consent of the current plot owner or owners and the following persons, in the priority listed: . . . (7) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

Tex. Health & Safety Code Ann. § 711.004(a). The statute further provides, “If the consent required by Subsection (a) cannot be obtained, the remains may be removed by permission of a county court of the county in which the cemetery is located.” *Id.* § 711.004(c). The statute sets forth who must be notified of an application filed under the statute, including “the cemetery organization operating the cemetery in which the remains are interred.” *Id.* § 711.004(c).

Linder alleged that her father was Bonnie's brother, that she is Bonnie's niece, that she is Bonnie's sole surviving heir, and that she seeks to remove Bonnie's remains from Crown Hill and reinter them in an open plot adjacent to Clyde's plot in Western Heights Cemetery in Dallas. Crown Hill did not consent to the removal of Bonnie's remains.

Crown Hill filed an answer in June 2022. It filed a general denial, various affirmative defenses, and prayed generally for its attorneys' fees.

The case was tried to the bench. On June 26, 2024, the trial court signed a final judgment. The trial court granted Linder's petition and ordered the following:

[Crown Hill] shall make disinterment arrangements with [Linder] within ten (10) days of the signing of this Order. [Linder] shall take all reasonable measures to protect and accommodate [Crown Hill's] property and normal course of business in the execution of this judgment.

The trial court further declared:

[Linder] has the absolute legal right to control the disposition of Bonnie Parker's remains and final resting place and therefore must be permitted to remove and transfer those remains as she has demanded [Crown Hill] do, notwithstanding any objections from [Crown Hill], or third parties, have made to that removal and transfer; and none of [Linder's] relatives or descendants shall be permitted to remove Bonnie Parker's remains from the gravesites, crypts, plots, or other location where [Linder] reinter them upon their removal from [Crown Hill's] premises.

The trial court taxed all costs against the party incurring them and denied all other relief.

On July 2, 2024, Crown Hill filed a notice of appeal. That same date, Crown Hill filed in the trial court an emergency motion to stay enforcement of judgment

pending appeal. It argued that a stay was necessary because the final judgment ordered Crown Hill to bind itself to disinterment agreements with Linder for Bonnie's remains within ten days of the final judgment but Crown Hill's position is that Bonnie has no right to disinter the remains. Crown Hill argued that its appeal will be rendered moot if the remains are disinterred.

While that motion was pending, on July 8, 2024, Crown Hill filed an emergency motion to stay enforcement of the judgment pending appeal in this Court. The Court denied the motion because suspension of enforcement of a judgment is an issue to be resolved in the first instance in the trial court, and the Court could then review that ruling. We also noted that although Crown Hill argued that it was unable to secure a hearing on its motion in the trial court, its position was not supported, and Crown Hill did not complain about the trial court's failure to rule.

On July 12, 2024, Linder filed a response to the emergency motion to stay in the trial court, arguing that Crown Hill has no justiciable interest in the case and lacks standing to contest the trial court's judgment. She argued that she made Crown Hill "a party to the case because non-parties generally cannot be bound by Court judgments" but that Crown Hill "effectively served as an amicus curiae in opposition to [Linder]." On July 16, 2024, Crown Hill filed a reply. The trial court heard the motion by submission.

On July 18, 2024, the trial court signed an order denying Crown Hill's emergency motion for stay.

On August 15, 2024, Crown Hill filed in this Court an Amended Emergency Motion to Stay Enforcement of the Judgment Pending Appeal. It requested a stay of the trial court's final judgment without the necessity of a bond in order to preserve the status quo and to prevent its appeal from becoming moot.

That same date, the Court issued an order construing Crown Hill's motion as a combined emergency motion for a stay and as a rule 24.4 motion to review the trial court's July 18, 2024 order. The Court granted an emergency stay of enforcement of the trial court's final judgment pending the Court's disposition of Crown Hill's rule 24.4 motion, *see* Tex. R. App. P. 24.4(c), and it requested Linder to file a response.

On September 5, 2024, Linder filed a combined response to Crown Hill's motion and motion to dismiss the appeal. She did not assert any specific argument as to why a stay would not render the appeal moot or why a bond would be necessary. Instead, she asked the Court to dismiss the appeal on grounds that Crown Hill does not have standing to appeal.

By a separate order, we denied Linder's motion to dismiss.

DISCUSSION

Crown Hill argues that it has a right to supersede enforcement of the judgment and that a supersedeas bond is not necessary to preserve the status quo because “[l]eaving the obligations of the parties where they are and the remains of Mrs. Parker where they have been since 1945 perfectly preserves the status quo and the parties’ rights pending appeal.” It also argues that Linder is not a creditor and

obtained only equitable relief and that there is no risk of Bonnie's remains being harmed, destroyed, or disturbed if the Court grants a stay. Alternatively, Crown Hill offered nominal security in the amount of \$1,000.

A judgment may be enforced pending appeal unless (1) the judgment is superseded in accordance with rule 24 or (2) the appellant is entitled to supersede the judgment without security by filing a notice of appeal. Tex. R. App. P. 25.1(h). We are aware of no statute authorizing a cemetery organization to suspend a judgment in a case brought under § 711.004 of the health and safety code by simply filing a notice of appeal, and Crown Hill does not cite one. Thus, the final judgment may be enforced unless it is superseded under rule 24.

The purpose of a supersedeas bond is to preserve the status quo by staying execution or enforcement of the judgment or order appealed from, pending the appeal. *Haedge v. Cent. Tex. Cattlemen's Ass'n*, 603 S.W.3d 824, 829 (Tex. 2020) (per curiam). We review a trial court's ruling regarding the suspension of enforcement of a judgment pending appeal for an abuse of discretion. *Sun Holdings, Inc. v. Stockton*, No. 05-24-00503-CV, 2025 WL 2097720, at *2 (Tex. App.—Dallas July 25, 2025, order) (mem. op.); *see also* Tex. R. App. P. 24.4(d).

We agree with Crown Hill in that it is entitled to supersede a non-monetary judgment. Tex. R. App. P. 24.1(a). In this case, the trial court granted Linder's petition and ordered that "Respondent [Crown Hill] shall make disinterment arrangements with Petitioner within ten (10) days of the signing of this Order." It

further ordered that Linder “must be permitted to remove and transfer those remains as she has demanded Respondent do, notwithstanding any objections from Respondent, or third parties, have made to that removal and transfer.” The final judgment thus imposes permanent injunctive relief against Crown Hill. *See 31 Holdings I, LLC v. Argonaut Ins. Co.*, 640 S.W.3d 915, 922 (Tex. App.—Dallas Feb. 17, 2022, no pet.) (“A prohibitive injunction forbids conduct, while a mandatory injunction requires it.”).

When, as in this case, a judgment is for something other than money or an interest in property, the trial court “*must* set the amount and type of security that the judgment debtor must post.” Tex. R. App. P. 24.2(a)(3) (emphasis added). “The security must adequately protect the judgment creditor against loss or damage that the appeal might cause.” *Id.* A trial court has discretion to deny a supersedeas bond in non-monetary cases, such as in cases involving permanent injunctions, but it must order the appellee to counter-supersede the judgment to protect the appellant against any loss or damage caused by the relief granted the appellee if an appellate court determines, on final disposition, that the relief was improper. *Id.*

We conclude the trial court abused its discretion by denying Crown Hill’s request to suspend enforcement of the judgment and by not setting the amount of a supersedeas bond. This is not a case where the trial court exercised its discretion to permit an appellee to counter-supersede a judgment. Linder did not make any such request in the trial court, and the trial court made no orders relating to any such relief.

Rather, it just denied Crown Hill's motion whereby Crown Hill sought to suspend enforcement of the judgment and to set the amount of the supersedeas bond.

This appeal will become moot if Crown Hill is not permitted to suspend enforcement of the judgment. The appeal concerns the trial court's ruling on Linder's request to remove Bonnie's remains from their current resting place and to reinter them in a plot in a different cemetery, and it concerns Crown Hill's opposition to that request. The case does not concern an issue of possession of personal property. It is irrelevant if the remains could theoretically be returned to Crown Hill's cemetery if it prevailed on appeal; the removal and reinterment of Bonnie's remains will have already taken place without Crown Hill's consent. Once the remains are removed from Crown Hill's cemetery and reinterred in another cemetery, then it would appear that the only way to reinter those remains in Crown Hill's cemetery would be through another application filed under § 711.004 of the health and safety code unless all consents required by that statute were obtained.

We reject Linder's argument that Crown Hill's motion should be denied because it lacks standing to appeal. To appeal an alleged error, a party must show that the error injuriously affects it. *Torrington Co. v. Stutzman*, 46 S.W.3d 829, 843 (Tex. 2000). An appealing party may not complain of errors that do not injuriously affect it or that merely affect the rights of others. *Id.* To have standing, an appellant must be personally aggrieved, meaning its alleged injury must be concrete and particularized, actual or imminent, not hypothetical. *Fin. Comm'n of Tex. v.*

Norwood, 418 S.W.3d 566, 580 (Tex. 2013). And its injury must be likely to be redressed by the requested relief. *Heckman v. Williamson Cnty.*, 369 S.W.3d 137, 154 (Tex. 2012).

Section 711.004 of the health and safety code permits remains to be removed from a plot in a cemetery if the cemetery organization operating the cemetery, among others, provides its written consent. Tex. Health & Safety Code Ann. § 711.004(a). Linder filed her petition, naming Crown Hill as a respondent, after Crown Hill would not provide its consent to Linder's request to remove Bonnie's remains from its cemetery. She acknowledges that Crown Hill "was within its rights . . . to withhold its consent" prior to the final judgment and that she named Crown Hill as a party to make it "bound" by the final judgment. Crown Hill then opposed her petition, litigated the case, and prayed generally for its attorneys' fees. Linder has now obtained a final judgment obtaining injunctive relief requiring Crown Hill to allow Linder to remove Bonnie's remains from its cemetery, despite its continued lack of consent. We conclude Crown Hill is personally aggrieved by the final judgment and has standing to appeal.

We further conclude that the amount of security should be set at \$0. Like in the trial court, Linder asserts no argument explaining how she would be injured by suspension of the judgment, and we can ascertain no such grounds on the record before us.

Accordingly, we **GRANT** the rule 24.4 motion, **REVERSE** the trial court's July 18, 2024 order, **SET** the amount of Crown Hill's supersedeas bond at **\$0**, and **SUSPEND** enforcement of the judgment until disposition of this appeal.

/JJ Koch/

J.J. KOCH
CHIEF JUSTICE