

REVERSE and RENDER and Opinion Filed September 15, 2025



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-24-00984-CV

**DARTEX HOLDINGS CORPORATION, Appellant
V.
ROYALTY LENDING II LTD, Appellee**

**On Appeal from the 298th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-24-06404**

MEMORANDUM OPINION

Before Justices Smith, Clinton, and Lee
Opinion by Justice Lee

In this restricted appeal, Dartex Holdings Corporation appeals the domestication of a Colorado judgment under the Uniform Enforcement of Foreign Judgments Act (UEFJA).¹ In four issues, Dartex contends the trial court erred in entering judgment because (1) improper service deprived the Colorado court of jurisdiction, (2) the want of jurisdiction resulted in a violation of due process, (3) the Colorado judgment was not final, and (4) appellee Royalty Lending II Ltd.'s affidavit under the UEFJA was deficient. We overrule the first three issues because

¹ TEX. CIV. PRAC. & REM. CODE §§ 35.001–.008.

we conclude Dartex has failed to establish error “apparent on the face of the record,” as it must to prevail in a restricted appeal. We sustain Dartex’s fourth issue, however, because it established that Royalty’s affidavit was deficient. Accordingly, we reverse the trial court’s judgment.

Background

Royalty sued Dartex in Colorado state court for breach of contract and obtained a default judgment. On April 29, 2024, Royalty sought to enforce the Colorado judgment in Texas by filing with the Dallas County District Clerk a copy of the judgment and the sworn affidavit of its attorney Elizabeth Sample. Sample stated in the affidavit she was Royalty’s attorney and that a copy of the judgment was attached and had been filed with the clerk, and she summarized the damages awarded by the judgment. Sample also stated the names and last known addresses of Dartex, Royalty, and Royalty’s counsel. Sample concluded the affidavit by stating that the purpose of the affidavit was “so that notice of the filing of the foreign judgment can be given to the judgment debtor under Chapter 35 of the Texas Civil Practice and Remedies Code.”

On May 30, 2024, Dartex filed a motion to stay enforcement of and to vacate the foreign judgment along with the affidavit of its president explaining the circumstances that led to Dartex’s failure to respond to the Colorado lawsuit.

On August 19, 2024, Dartex appealed from the entry of the foreign judgment and “the denial by operation of law of [its]” motion to stay enforcement of and to

vacate the foreign judgment. Royalty moved to dismiss the appeal for want of jurisdiction, arguing the notice of appeal was untimely because the final judgment was entered on April 29 and thus the notice of appeal was due by May 29, 2024.

In an order on the motion to dismiss, this Court agreed that the notice of appeal was untimely as a regular appeal but concluded it was timely for purposes of a restricted appeal. *See* TEX. R. APP. P. 26.1(c), 30.

Discussion

Dartex presents four issues in this restricted appeal. It argues that (1) it is apparent from the face of the record that Royalty “served the incorrect party in Colorado, thus never conveying jurisdiction to the Colorado court”; (2) “the lack of personal jurisdiction result[ed] in a lack of due process”; (3) the face of the record shows that “the Colorado judgment was never final”; and (4) the record conclusively establishes that Royalty’s affidavit supporting its foreign judgment is deficient as a matter of law and requires reversal.

To prevail in this restricted appeal, Dartex must establish: (1) it filed its notice of restricted appeal within six months after the judgment was signed; (2) it was a party to the underlying suit; (3) it did not participate in the hearing that resulted in the judgment complained of and did not timely file any post-judgment motions or request findings of fact and conclusions of law; and (4) error is apparent on the face of the record. *Lawton Candle, LLC v. BG Pers., LP*, 690 S.W.3d 122, 124–25 (Tex. App.—Dallas 2024, no pet.).

There is no question that Dartex meets the first two requirements of a restricted appeal: Dartex filed its notice of appeal within six months after the judgment was signed and was a party to the underlying suit. *See Tayob v. Quarterspot, Inc.*, No. 05-15-00897-CV, 2016 WL 7163842, at *3 (Tex. App.—Dallas Nov. 28, 2016, no pet.) (mem. op.) (appellant was a party to underlying suit when he was the defendant named in the foreign judgment appellee sought to enforce).

Further, Dartex did not participate in the hearing that resulted in the judgment complained of and did not timely file any post-judgment motions or request findings of fact and conclusions of law. Although Dartex filed a motion to vacate the foreign judgment (and made subsequent filings in support of that motion), it was not timely. Royalty filed the foreign judgment in the trial court on April 29, 2024. That filing acted as the final judgment and triggered the appellate deadline. *See Moncrief v. Harvey*, 805 S.W.2d 20, 24 (Tex. App.—Dallas 1991, no pet.). Thus, a motion for new trial needed to be filed by May 29, 2024. *See* TEX. R. CIV. P. 329b(a) (motion for new trial due within thirty days after judgment signed). Accordingly, Dartex's May 30, 2024 motion to vacate was not timely, and Dartex meets the third requirement of a restricted appeal. *See Whitehead v. Bulldog Battery Corp.*, 400 S.W.3d 115, 117–18 (Tex. App.—Dallas 2013, pet. denied) (mem. op. on reh'g) (appeal met third requirement although appellant filed post-judgment motions when such motions were not timely).

We next consider whether Dartex has established error on the face of the record. In its first three issues,² Dartex complains of the Colorado default judgment, arguing that the Colorado court never acquired jurisdiction over Dartex, the judgment is void for lack of due process, and the judgment is not final under Colorado law. For each of these contentions, Dartex refers to and relies on documents attached to its untimely motion to vacate or to subsequent filings. These documents are not properly before us in this restricted appeal, where “[o]ur review is confined to error apparent on the face of the record.” *Dole v. LSREF2 APEX2, LLC*, 425 S.W.3d 617, 625 (Tex. App.—Dallas 2014, no pet.). The face of the record, for purposes of restricted appeals, consists of all the papers on file in the appeal as they existed in the trial court at the time the judgment was entered. *Mech v. GXA Network Sols.*, No. 05-16-00270-CV, 2017 WL 3634275, at *6 (Tex. App.—Dallas Aug. 24, 2017, no pet.) (mem. op.); *see also Brown v. Ogbolu*, 331 S.W.3d 530, 534 (Tex. App.—Dallas 2011, no pet.). Because Dartex’s contentions rely on evidence not before the trial court at the time the judgment was entered on April 29, 2024, we conclude Dartex has failed to show “error apparent on the face of the record” as to its first three issues. Dartex’s first three issues are overruled.

In its fourth issue, Dartex argues that the affidavit filed by Royalty in support of the domestication of its foreign judgment is deficient on its face because it failed

² Although we sustain Dartex’s fourth issue and reverse, we must address his first three issues because they “could potentially afford [it] greater relief” as Dartex asks us in these issues to render judgment that the Colorado judgment is void. *See Tayob*, 2016 WL 7163842, at *4.

to reflect that the facts stated in the affidavit were within the affiant's personal knowledge. We agree.

At the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney shall, among other things, file with the clerk of the court an affidavit showing the name and last known post office address of the judgment debtor and the judgment creditor. TEX. CIV. PRAC. & REM. CODE § 35.004(a). In addition to meeting the requirements of section 312.011 of the Texas Government Code,³ the affidavit must illustrate that the facts contained therein reflect the affiant's personal knowledge. *See Tayob*, 2016 WL 7163842, at *3 (stating that affidavit under section 35.004(a) must meet personal knowledge requirement in addition to section 312.011's requirements); *see also Kerlin v. Arias*, 274 S.W.3d 666, 668 (Tex. 2008) (per curiam) (stating that, to have probative value, an affiant must swear that the facts presented in the affidavit reflect his personal knowledge). "If no basis from which to infer personal knowledge is shown, then the purported affidavit is deficient." *Siddiqui v. NextGear Capital, Inc.*, 655 S.W.3d 654, 657 (Tex. App.—Amarillo 2022, no pet.) (citing *Tayob*, 2016 WL 7163842, at *3).

Here, the affidavit in question failed to illustrate that the facts asserted in the affidavit reflected the affiant's personal knowledge. Instead, as described above, the affiant, Sample, recited that a copy of the judgment had been filed with the clerk and

³ "Affidavit" means a statement in writing of a fact or facts signed by the party making it, sworn to before an officer authorized to administer oaths, and officially certified to by the officer under his seal of office." TEX. GOV'T CODE § 312.011(1).

described the damages awarded by the judgment, asserted the names and last known addresses of the parties and counsel, and stated that the purpose of the affidavit was to give notice of the filing of the foreign judgment under Chapter 35 to Dartex. Other than opening the affidavit with the statement “I am the attorney for the Judgment Creditor, ROYALTY LENDING II LTD,” she otherwise fails to identify the basis for her knowledge of the stated facts.

Thus, as in *Tayob*, the affidavit “does not even purport to state that the facts it contains are based on [the affiant’s] personal knowledge and does not show any basis for [the affiant’s] knowledge of the facts.” *Tayob*, 2016 WL 7163842, at *3. Because filing an affidavit with the clerk of the court providing the parties’ names and addresses is a mandatory requirement of the UEFJA, *see* TEX. CIV. PRAC. & REM. CODE § 35.004(a), and Royalty failed to file a proper affidavit, it failed to comply with the filing requirements of the UEFJA. *See Tayob*, 2016 WL 7163842, at *3; *see also Siddiqui*, 655 S.W.3d at 658. Accordingly, we sustain Dartex’s fourth issue.

Conclusion

We reverse the trial court’s judgment and render judgment denying Royalty Lending II Ltd. recovery against Dartex Holdings Corporation upon its live petition to domesticate the Colorado judgment. TEX. R. APP. P. 43.2(c) (stating that a court of appeals may reverse the trial court’s judgment in whole or part and render the judgment that the trial court should have rendered). This is done without prejudice

to Royalty again attempting to domesticate the judgment in accordance with the
UEFJA.

/Mike Lee/

MIKE LEE

JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

DARTEX HOLDINGS
CORPORATION, Appellant

No. 05-24-00984-CV V.

ROYALTY LENDING II LTD,
Appellee

On Appeal from the 298th Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DC-24-06404.
Opinion delivered by Justice Lee.
Justices Smith and Clinton
participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **REVERSED**, and judgment is **RENDERED** denying Royalty Lending II Ltd. recovery against Dartex Holdings Corporation upon its live petition to domesticate the Colorado judgment.

It is **ORDERED** that appellant DARTEX HOLDINGS CORPORATION recover its costs of this appeal from appellee ROYALTY LENDING II LTD.

Judgment entered this 15th day of September, 2025.