



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-21-00435-CV

TARRANT COUNTY BAIL BOND BOARD, Appellant

V.

ERIC KHOZINDAR AS AGENT FOR UNITED FIRE INSURANCE COMPANY
D/B/A BIG BUBBA'S BAIL BONDS, Appellee

On Appeal from the 352nd District Court
Tarrant County, Texas
Trial Court No. 352-329947-21

Before Sudderth, C.J.; Birdwell and Wallach, JJ.
Opinion by Justice Birdwell

OPINION

Appellant, the Tarrant County Bail Bond Board, denied appellee Eric Khozindar's amended application to renew his individual bail-bond license as an agent for United States Fire Insurance Company d/b/a Big Bubba's Bail Bonds. The Board's letter informing Khozindar stated that it had denied the application because his original, withdrawn application had contained substantial omissions and because his amended application—which added additional lawsuit and previous-license-suspension information—was not “properly execute[d].” He later admitted that the jurat attached to his amended application was the same one he had submitted with his original application months before.

Khozindar appealed the Board's denial to the district court and sought the following relief via temporary restraining order (TRO) and temporary injunction:

1. Defendant Tarrant County Bail Bond Board [should] be prohibited from restraining Plaintiff from [c]onducting business as an Agent for United States Fire Casualty Company, a Bail Bond Corporation, without further order of this Court.
2. Defendant Tarrant County Bail Bond Board [should] be prohibited from restraining Plaintiff from issuing bail bonds, as an Agent, on behalf of United States Fire Casualty Company, a Bail Bond Corporation, without further order of this Court.
3. Defendant Tarrant County Bail Bond Board [should] be prohibited from interfering with the ongoing business of Plaintiff as an Agent, on behalf of United States Fire Casualty Company, a Bail Bond Corporation, without further order of this Court[.]

After the trial court granted a TRO and then—after a hearing—a temporary injunction, the Board filed this interlocutory appeal. Because the trial court was prohibited by statute from granting injunctive relief based on Khozindar’s live pleadings, we reverse the trial court’s order granting the temporary injunction.

Standard of Review and Applicable Law

A temporary injunction is an extraordinary remedy that does not issue as a matter of right. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (op. on reh’g). Its purpose is to preserve the status quo of the litigation’s subject matter until a trial on the merits. *Clint ISD v. Marquez*, 487 S.W.3d 538, 555 (Tex. 2016). The status quo is “the last, actual, peaceable, non-contested status which preceded the pending controversy.” *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004) (orig. proceeding).

We review a trial court’s decision to grant a temporary injunction for an abuse of discretion. *Butnaru*, 84 S.W.3d at 204. A trial court abuses its discretion if it rules in an arbitrary manner or without reference to guiding rules and principles. *Id.* at 211. Although a trial court does not abuse its discretion by basing its temporary-injunction ruling on conflicting evidence or when some evidence of substantive and probative character exists to support its decision, a trial court does abuse its discretion by misapplying the law to established facts. *T.L. v. Cook Children’s Med. Ctr.*, 607 S.W.3d 9, 34 (Tex. App.—Fort Worth 2020, pet. denied), *cert. denied*, 141 S. Ct. 1069 (2021). We review de novo any question-of-law rulings necessary to resolve whether a temporary injunction should issue. *Id.*; *see also, e.g., Oil Field Haulers Ass’n v. R.R. Comm’n*, 381

S.W.2d 183, 192–95, 197 (Tex. 1964); *Camp v. Shannon*, 348 S.W.2d 517, 519–20 (Tex. 1961); *Sw. Greyhound Lines, Inc. v. R.R. Comm’n of Tex.*, 99 S.W.2d 263, 266–68 (Tex. 1936).

Issues on Appeal

The Board raises three issues in this appeal, contending that the trial court abused its discretion by issuing the temporary injunction because (1) Texas Occupations Code Section 1704.257(b), which provides that “[a] board order appealed under Section 1704.255 has full force and effect pending determination of the appeal,” precludes the issuance of a temporary injunction; (2) Khozindar cannot show a probable right to recover when he “failed to satisfy statutory application mandates in his application to the Board and provided no evidence that he could or would correct these deficiencies on appeal before the court”; and (3) the temporary-injunction order fails to preserve the status quo in that it “renew[s]” Khozindar’s license “beyond its legislatively established expiration date.”

Texas Occupations Code License Renewal Background and Procedure

In a county with a bail bond board, a person who is not a licensed Texas attorney filing a notice of appearance as counsel of record in a criminal case “may not act as a bail bond surety or as an agent for a corporate surety in the county unless the person holds a license issued under” Chapter 1704 of the Texas Occupations Code. Tex. Occ. Code Ann. §§ 1704.151, .163; *see id.* § 1704.002; *Mining v. Hays Cnty. Bail Bond Bd.*, No. 03-05-00448-CV, 2006 WL 952402, at *1 n.1 (Tex. App.—Austin

Apr. 14, 2006, no pet.) (mem. op.) (“Chapter 1704 applies only to those less populous counties that choose to create a board.”). County bail bond boards regulate Chapter 1704 licensing. Tex. Occ. Code Ann. §§ 1704.051, .101–.109 (describing board’s powers and duties); Tex. Att’y Gen. Op. No. JM-1057 (1989). Chapter 1704’s purpose is “to protect the public interest by governing the business of bail bonds, including the licensing and regulation of persons who engage in that business.” *See Villanueva v. Gonzalez*, 123 S.W.3d 461, 465 (Tex. App.—San Antonio 2003, no pet.); *Smith v. Tarrant Cnty. Bail Bond Bd.*, 997 S.W.2d 870, 871 (Tex. App.—Fort Worth 1999, pet. denied); *see also* Act of May 18, 1973, 63rd Leg., R.S., ch. 550, § 1, 1973 Tex. Gen. Laws 1520, 1520.¹

To be eligible for a Chapter 1704 license, a person must be a Texas resident and United States citizen; be at least eighteen years old; possess the financial resources prescribed by Section 1704.160, unless the person is acting solely as an agent for a corporation that is licensed; and

¹The Bail Bond Act was originally enacted in 1973 as part of the Revised Civil Statutes and was codified in the Occupations Code in 1999 as a result of a nonsubstantive revision. *See Smith v. Wise Cnty. Bail Bond Bd.*, 995 S.W.2d 881, 883 (Tex. App.—Fort Worth 1999, pet. denied); Act of May 13, 1999, 76th Leg., R.S., ch. 388, § 1, 1999 Tex. Gen. Laws 1431, 2277–91 (current version at Tex. Occ. Code Ann. §§ 1704.001–.306). Therefore, cases construing and relying on the former versions of Chapter 1704 provisions are instructive. *See Pruett v. Harris Cnty. Bail Bond Bd.*, 249 S.W.3d 447, 455 (Tex. 2008) (noting that because 1999 act “was intended as a recodification only, not as a substantive change in the law,” court presumed the “Legislature intended the same meaning” of the term “bonding business,” even when definition in 1999 act was slightly different).

submit documentary evidence that, in the two years preceding the date a license application is filed, the individual[]

(A) has been continuously employed by a person licensed under this chapter for at least one year and for not less than 30 hours per week, excluding annual leave, and has performed duties that encompass all phases of the bonding business; and

(B) completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an accredited institution of higher education in the state.

Tex. Occ. Code Ann. § 1704.152(a). In addition, persons who, after August 27, 1973, commit and are “finally convicted” of felonies or of misdemeanors involving moral turpitude are ineligible for a license. *Id.* § 1704.153.

Original and renewal license applications (1) must be sworn; (2) must be submitted “in a form[,] and contain the information[,] prescribed by the board”; and (3) must also list “the applicant’s name, age, and address”; “the name under which the bail bond business will be conducted”; a description of “each place, including the street address and municipality, at which the business will be conducted”; and

the amount of cash or the cash value of a certificate of deposit or cashier’s check that the applicant intends to deposit with the county treasurer if the applicant’s application is approved or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property.

Id. §§ 1704.154(a)–(b), .162(b), (c).² In addition, an individual’s application must be accompanied by (1) a “complete, sworn financial statement,” (2) a declaration that the applicant will comply with Chapter 1704 and the board’s rules, (3) three letters of recommendation from reputable persons who have known the applicant, (4) the \$500 filing fee, (5) the applicant’s photograph, (6) the applicant’s fingerprints, and (7) if

the applicant is or has been licensed under [Chapter 1704] in another county . . . a list of each county in which the applicant holds a license[] and . . . [the applicant’s] statement . . . as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from a bail bond executed by the applicant as a surety or as an agent for a surety.

Id. § 1704.154(b).

Each county’s board is required to “exercise powers incidental or necessary to the administration of” Chapter 1704, “supervise and regulate each phase of the bonding business in the county,” and “adopt and post rules necessary to implement” Chapter 1704. *Id.* § 1704.101(1), (3)–(4); *Ellen v. Brazos Cnty. Bail Bond Bd.*, 127 S.W.3d 42, 48 (Tex. App.—Houston [14th Dist.] 2003, no pet.) (mem. op.) (citing Section 1704.101(1), (3)–(4) for the proposition that “it is up to each county’s board to determine what is required in its particular county’s bail bond application”); *Dall. Cnty. Bail Bond Bd. v. Stein*, 771 S.W.2d 577, 580 (Tex. App.—Dallas 1989, writ denied) (“Where a statute expressly authorizes an agency to regulate an industry, it impliedly

²For purposes of this opinion, we omit from our list any corporation-specific requirements. *E.g., id.* § 1704.154(b)(2)(B).

authorizes the agency to promulgate rules and regulations necessary to accomplish such purpose.”).

The board must make a preliminary determination of whether the applicant possesses the requisite financial resources and satisfies all requirements of Chapter 1704 and, after doing so, conduct a hearing on the application. Tex. Occ. Code Ann. §§ 1704.157, .158. “After the hearing . . . the board shall enter an order conditionally approving the application unless the board determines that a ground exists to deny the application.” *Id.* § 1704.159(a); *see also id.* § 1704.101(6). But “[i]f the board determines that a ground exists to deny the application, the board shall enter an order denying the application.” *Id.* § 1704.159(a); *see also id.* § 1704.101(7).

A bail-bond-license applicant or holder may appeal a board decision denying a license renewal by filing a petition in the county’s district court. *Id.* § 1704.255(a). The trial court must review the appeal “by trial de novo in the same manner as an appeal from a justice court to a county court.” *Id.* § 1704.256. Importantly, and at issue here, “[a] board order appealed under Section 1704.255 has full force and effect pending determination of the appeal.” *Id.* § 1704.257.

In the de novo appeal, the board’s decision “enjoys no deference”; the case is tried “as though it had been filed originally in th[e district] court.” *Grimes Cnty. Bail Bond Bd. v. Ellen*, 267 S.W.3d 310, 314 (Tex. App.—Houston [14th Dist.] 2008, pet. denied).

Analysis

Khozindar filed his petition in the trial court after the Board's denial of his renewal application, and in his petition, he seeks de novo review of the Board's decision under Section 1704.255. The plain language of Section 1704.257 vis à vis a Section 1704.255 appeal is clear: an appealed Board order issued under Chapter 1704's procedures remains effective during the appeal. Tex. Occ. Code Ann. § 1704.257; *see Smith v. Travis Cnty. Bail Bond Bd.*, 559 S.W.2d 693, 693–94 (Tex. App.—Austin 1977, no writ).³ Therefore, the trial court's temporary-injunction order here is contrary to the statute's plain-language directive.

Khozindar has never challenged the constitutionality of Section 1704.257. Instead, he now argues that it does not apply to his request for temporary injunctive relief because one of his contentions in the de novo appeal is that the Board does not have the authority to require a bail-bond-license applicant to provide information above and beyond Chapter 1704's express requirements. But Khozindar did not plead this complaint; in his live petition, he argues only that his amended application

³The court in *Smith* addressed the application of former Section 11 of Article 2372p-3 of the Revised Civil Statutes, which provided that “[t]he decision of the board shall have full force and effect pending the determination of the appeal.” Act of May 29, 1981, 67th Leg., R.S., ch. 312, § 1, sec. 11, 1981 Tex. Gen. Laws 875, 883. Although Section 11 provided for an appeal only “from any board’s order revoking, suspending, or refusing to issue a license,” *see id.*, and Smith had appealed from the Travis County Board’s denial of his application for a new license after his prior one had expired (rather than a renewal before expiration), *Smith*’s reasoning applies here in light of (a) Section 1704.257’s plain language, which is substantially the same as former Section 11’s and (b) Section 1704.255’s inclusion of a board order denying license renewal as a decision that may be appealed to the district court de novo.

included the information he had omitted from his original application and that the Board would not allow him to submit an updated jurat for his amended application.⁴ *See Tex. Health Huguley, Inc. v. Jones*, 637 S.W.3d 202, 223 n.42 (Tex. App.—Fort Worth 2021, no pet.) (“Courts are without authority to grant injunctive relief beyond or in addition to that for which there is specific pleading.”).

The intermediate court decisions Khozindar cites as both expressly and implicitly supporting his argument are therefore procedurally distinguishable. *See Garcia-Marroquin v. Nueces Cnty. Bail Bond Bd.*, 1 S.W.3d 366 (Tex. App.—Corpus Christi–Edinburg 1999, no pet.); *Castaneda v. Gonzalez*, 985 S.W.2d 500 (Tex. App.—Corpus Christi–Edinburg 1998, no pet.) (op. on reh’g); *Stein*, 771 S.W.2d at 578–80; *Dall. Cnty. Bail Bond Bd. v. Mason*, 773 S.W.2d 586, 586–87 (Tex. App.—Dallas 1989, no writ).

In *Garcia-Marroquin*, the appellate court held that the former version of Section 1704.257 did not bar injunctive relief because the Bail Bond Act did not even apply to the appellant’s injunctive-relief claims; she had pre-emptively sued to challenge the Nueces County Board’s accounting procedures and title-policy requirement as outside the Board’s statutory authority. 1 S.W.3d at 374–76. Although determining that the Act did not apply to the appellant’s injunction claims, the court described the former version of Section 1704.257 as “the section of the Bail Bond Act precluding

⁴*See Bos v. Smith*, 556 S.W.3d 293, 305–06 (Tex. 2018) (explaining that although “we liberally construe the pleadings in the pleader’s favor . . . , a liberal construction ‘does not require a court to read into a petition what is plainly not there’” (quoting *Heritage Gulf Props., Ltd. v. Sandalwood Apartments, Inc.*, 416 S.W.3d 642, 658 (Tex. App.—Houston [14th Dist.] 2013, no pet.))).

injunction during an appeal.” *Id.* at 374. *Castaneda* was a suit to enjoin the Kleberg County Sheriff from enforcing his bail-bond rules; the Act did not apply because the county had fewer than 110,000 residents and had not formed a bail bond board. 985 S.W.2d at 502, 504. *Stein* did not involve the Section 1704.255 appeal procedure; Stein specifically claimed that the Act did not apply to him as an employee of a bail-bond business. 771 S.W.2d at 578–80. And, finally, *Mason* was an appeal from a summary judgment granting permanent injunctive relief; no temporary injunction issued, and the propriety of the pre-summary-judgment TRO was not addressed in the appeal. 773 S.W.2d at 586–87. Accordingly, none of these cases support the trial court’s grant of injunctive relief here based on Khozindar’s pleadings.⁵

We sustain the Board’s first issue. Because our disposition of the Board’s first issue requires reversal, we need not address its second and third issues. *See* Tex. R. App. P. 47.1.

Conclusion

Having sustained the Board’s first issue, we reverse the trial court’s order granting Khozindar a temporary injunction.

/s/ Wade Birdwell
Wade Birdwell
Justice

Delivered: September 8, 2022

⁵We do not address whether Khozindar could amend his pleadings to avoid the application of Section 1704.257 because that issue is not before us.