

**Affirmed and Opinion Filed June 29, 2020**



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

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**No. 05-19-00587-CV**

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**TAMMY DENISE ELLIS, Appellant  
V.  
JOSEPH DALE ELLIS, Appellee**

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**On Appeal from the 303rd Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. DF-19-02815**

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**MEMORANDUM OPINION**

**Before Justices Schenck, Osborne, and Reichel  
Opinion by Justice Osborne**

Tammy Ellis, pro se, appeals the trial court's final decree of divorce, dissolving her marriage to Joseph Dale Ellis and dividing the marital property. In four issues, Tammy Ellis argues the trial court lacked personal jurisdiction over her because she is a non-resident of Texas.<sup>1</sup> She concedes that the trial court had jurisdiction to dissolve her marriage but contends that it did not have jurisdiction to divide the marital property or deny her alimony. Joseph Ellis responds that she has waived the issue of personal jurisdiction.

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<sup>1</sup> We note that Tammy Ellis does not challenge the trial court's subject-matter jurisdiction.

A party wishing to challenge personal jurisdiction must either make a special appearance or abstain from the proceedings and wait to collaterally attack the judgment when the opposing party seeks to enforce it. *See Adeleye v. Driscal*, 544 S.W.3d 467, 475–76 (Tex. App.—Houston [14th Dist.] 2018, no pet.); *Yuryeva v. McManus*, No. 01-12-00988-CV, 2013 WL 6198322, at \*4 (Tex. App.—Houston [1st Dist.] Nov. 26, 2013, pet. denied) (mem. op.). A defendant may make a special appearance by sworn motion filed before any motion to transfer venue or any other plea, pleading, or motion and may amend the special appearance to cure defects. TEX. R. CIV. P. 120a. Personal jurisdiction can be waived when it is not properly contested. *McGuire v. McGuire*, 18 S.W.3d 801, 804 (Tex. App.—El Paso 2000, no pet.); *accord Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 n.14 (1985) (“[T]he personal jurisdiction requirement is a waivable right.”).

The record shows that Tammy Ellis was personally served with citation and the petition, she failed to file an answer, she did not file a special appearance challenging the trial court’s jurisdiction, and she did not appear for trial. Accordingly, we conclude that she has failed to preserve any of her appellate issues. TEX. R. APP. P. 33.1(a).

The trial court's final decree of divorce is affirmed.

/Leslie Osborne/

LESLIE OSBORNE

JUSTICE

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

**JUDGMENT**

TAMMY DENISE ELLIS, Appellant

No. 05-19-00587-CV      V.

JOSEPH DALE ELLIS, Appellee

On Appeal from the 303rd Judicial  
District Court, Dallas County, Texas  
Trial Court Cause No. DF-19-02815.  
Opinion delivered by Justice  
Osborne. Justices Schenck and  
Reichek participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee JOSEPH DALE ELLIS recover his costs of this appeal from appellant TAMMY DENISE ELLIS.

Judgment entered June 29, 2020.