

Reversed and Remanded and Opinion Filed April 8, 2026



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

No. 05-25-00943-CV

IN THE INTEREST OF J.A., A CHILD

**On Appeal from the 301st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-24-10595**

MEMORANDUM OPINION

Before Justices Smith, Breedlove, and Rossini
Opinion by Justice Breedlove

Juan Aguilar Osorio, Husband, appeals the trial court's denial of a bill of review challenging the trial court's entry of a default divorce decree. Husband argues in three issues that: (1) he was denied due process because he did not receive actual notice of the lawsuit, the trial by submission, nor of the court's judgment; (2) he had a meritorious defense he was prevented from presenting by the fraudulent or wrongful act of Wife, Anna Perla; and (3) the trial court's failure to issue findings of fact and conclusions of law adversely affects Husband's ability to present his appeal and is harmful error.

We conclude that the trial court did not have personal jurisdiction over Husband and that the record could not support a default judgment. We reverse the trial court's final decree of divorce and remand the case for further proceedings consistent with this opinion.

PROCEDURAL BACKGROUND

Husband and Wife married in 2012. Wife filed for divorce in 2022. On November 29, 2022, the trial court signed a default final decree of divorce by submission. Husband and Wife continued to live together. In July 2024, Husband learned about the divorce decree. On July 23, 2024, Husband filed a petition for bill of review challenging the default judgment. The trial court held a hearing on Husband's bill of review in February 2025 and denied Husband's petition. Husband requested findings of fact and conclusions of law, which the trial court did not issue. Husband filed a motion for new trial, which was heard on June 26, 2025. The trial court denied the motion. This appeal followed.

STANDARD OF REVIEW AND APPLICABLE LAW

Trial courts lack jurisdiction over a defendant who was not properly served with process. *Spanton v. Bellah*, 612 S.W.3d 314, 316 (Tex. 2020). A complete failure of service deprives a litigant of due process and a trial court of personal jurisdiction; the resulting judgment is void and may be challenged at any time. *In re E.R.*, 385 S.W.3d 552, 566 (Tex. 2012). Personal jurisdiction is a question of law,

which appellate courts review de novo. *Law Off. of Robert D. Wilson v. Tex. Uninvest-Frisco, Ltd.*, 291 S.W.3d 110, 113 (Tex. App.—Dallas 2009, no pet.).

The bill of review is a direct attack on the default judgment. See *Frost Nat'l Bank v. Fernandez*, 315 S.W.3d 494, 497 (Tex. 2010). For more than 150 years, the Texas Supreme Court has required that strict compliance with the rules of service of citation affirmatively appear in the record for a default judgment to withstand direct attack. See *Primate Constr., Inc. v. Silver*, 884 S.W.2d 151, 152 (Tex. 1994) (citing *Wilson v. Dunn*, 800 S.W.2d 833, 836 (Tex. 1990); *Uvalde Country Club v. Martin Linen Supply Co.*, 690 S.W.2d 884, 885 (Tex. 1985); *McKanna v. Edgar*, 388 S.W.2d 927, 929 (Tex. 1965); *Flynt v. Kingsville*, 82 S.W.2d 934, 934 (1935); *Sloan v. Batte*, 46 Tex. 215, 216 (1876); and *Roberts v. Stockslager*, 4 Tex. 307, 309 (1849)). No-answer default judgments are disfavored and cannot stand when a defendant was not served in “strict” compliance with applicable requirements. *Spanton v. Bellah*, 612 S.W.3d 314, 316 (Tex. 2020). There are no presumptions in favor of valid issuance, service, or return of citation. *Id.*; *Primate Constr.*, 884 S.W.2d at 152. The party requesting service bears the responsibility for ensuring that service is properly accomplished and reflected in the record. *Primate Constr.*, 884 S.W.2d at 153.

DISCUSSION

In his first issue on appeal, Husband argues that the trial court erred in denying his bill of review because the default judgment was void for lack of personal

jurisdiction. The record before us does not contain any return of service. Wife has not asserted, and we do not find that the record contains any showing, that a return of service was filed with the trial court as required by Rule 107. As the party requesting service of process, Wife had the responsibility to ensure that a return of service was filed with the trial court. *See Primate Constr.*, 884 S.W.2d at 153. The trial court was prohibited from rendering a default judgment against Husband where a return of service had not been on file with the clerk of the court for ten days. TEX. R. CIV. P. 107(h). Without proof of service, we cannot presume that service was valid. *See Spanton*, 612 S.W.3d at 316; *Primate Constr.*, 884 S.W.2d at 152.¹

When the record fails to show strict compliance with the rules of civil procedure, the attempted service of process is invalid and of no effect. *See Spanton*, 612 S.W.3d at 317; *Uvalde Country Club*, 690 S.W.2d at 885; *Cato v. Smith-Cato*, No. 05-22-00068-CV, 2023 WL 4092489, at *3 (Tex. App.—Dallas May 26, 2023, no pet.) (mem. op.) (reversing default judgment where record contained no evidence of proper citation or return of service); *In re J.M.H.*, No. 12-21-00063-CV, 2022 WL 868713, at *2 (Tex. App.—Tyler March 23, 2022, no pet.) (mem. op.) (reversing

¹ On appeal, Wife argues that the trial court was correct in implying proper service of process from Wife’s contradicted testimony at the bill of review hearing that a process server came to her house and served Husband with some documents. However, this argument is an attempt to prematurely shift the burden of proof—Husband’s obligation to disprove proper service is only triggered after Wife establishes proper proof of service, which she did not do here. Instead, Wife had the obligation to demonstrate strict compliance with the rules of service of process, and her testimony that she saw a process server serve her husband some documents does not satisfy the requirements. *See Spanton*, 612 S.W.3d at 317.

default judgment where record contained no evidence of proper citation or return of service); *Ming Zhe Inc. v. Alvarado*, No. 13-19-00532-CV, 2020 WL 6878733, at *2 (Tex. App.—Corpus Christi-Edinburg November 24, 2020, no pet.) (mem. op.) (reversing default judgment where record contained a citation but no completed return of service).

The record does not establish that Husband was properly served. As a result, the trial court did not have personal jurisdiction over Husband, and the final decree of divorce is void. The trial court acted without reference to guiding rules and principles when it granted a default judgment against a respondent who had not been served and when it denied Husband’s bill of review challenging the void default judgment. Accordingly, we conclude the trial court erred when it entered the default decree of divorce and when it denied Husband’s bill of review.

Husband’s first issue is sustained. Based on our resolution of this issue, we need not address Husband’s remaining issues.

CONCLUSION

The trial court erred when it entered a default judgment because the trial court lacked personal jurisdiction over Husband. We reverse the trial court’s final decree of divorce and remand the case for further proceedings consistent with this opinion.

/Maricela M. Breedlove/
MARICELA M. BREEDLOVE
JUSTICE