

No Bond Is Required For The Turnover Receivership

Although no bond is required for the turnover receivership, granting turnover relief is within the Court's discretion. The best you can do is use these arguments and authorities to let the judge know that it is not required under the statute or case law. *Childre v. Great Sw. Life Ins. Co.*, 700 S.W. 2d 284 (Tex. App.—Dallas 1985, no writ). The decision whether to require a receiver's bond lies within the court's discretion. Texas Rule of Civil Procedure 695a provides for a receiver's bond to protect the defendant in the case of a wrongfully appointed receiver. The idea of a wrongfully appointed turnover receiver is out of context, because the judgment creditor has already won its judgment and the elements will have been proved up at the hearing.

“There is a strong view that since the underlying obligation has been determined by final judgment, the judgment debtor will not be harmed if no bond, or merely a nominal bond, is required. Any bond which may be required should be carefully framed so as not to indemnify the judgment debtor in the traditional sense, as the righteousness of the appointment should have been fully litigated in any hearing pursuant to the new statutes.”

Childre, 700 S.W.2d at 289 (quoting David Hittner, *Texas Post-Judgment Turnover & Receivership Statutes*, 45 Tex. Bar J. 417, 420 (1982)).

Unless the judgment debtor shows extraordinary circumstances, any bond required should not be in an amount that would act as a prohibitive cost or make it economically impossible for the judgment creditor to use the remedies provided in [the turnover statute] for even the smallest of judgments. *Id.* at 289 (quoting Hittner, *supra*, at 420); *Shultz v. Cadle Co.*, 825 S.W.2d 151, 154-155 (Tex.App.—Dallas 1992, writ denied); *Estate of Herring*, 983 S.W.2d 61 (Tex. App.—Corpus Christi, 1999, no pet.)

The bond requirements of Rule 695a do not apply to a turnover receiver. *In re Estate of Herring*, 983 S.W.2d 61, 64 (Tex. App.—Corpus Christi 1998, no pet.) The Rule dates from the 1940s, 30 years before there would even be a turnover statute.

In the Dallas area, courts are generally ordering either no bond or a very minimal bond - \$100 or \$200. This has been the standard in D/FW area for years and years.

Keep in mind that there is no concept of a wrongful receivership in a turnover situation, considering the elements will have been properly proved up. (Showing that the defendant owns some non-exempt property.) CPRC 31.002

Also, if the judge is worried about the receiver doing something wrong, any wrongdoing could be offset by the judgment. The defendant already owes the plaintiff. Actually, if the judge is worried about the receiver, the solution is to use an experienced receiver who has a good reputation.