

## TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

# Office of the Attorney General of Texas v. Charles Trask Dix

No. 03-12-00677-CV, Texas Court of Appeals, Third District, at Austin (January 25, 2013)

### SUMMARY

The Texas Court of Appeals, Third District, granted the Office of the Attorney General of Texas's agreed motion to set aside the district court's summary judgment without regard to the merits. The court remanded the case for rendition of judgment in accordance with the parties' agreement under Texas Rule of Appellate Procedure 42.1(a)(2)(B).

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Texas Court of Appeals, Third District, at Austin                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Justice Puryear; Justice Pemberton; Justice Rose                                                                                                                                                                                                                                                                                 |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                                                                            |
| DECIDED               | January 25, 2013                                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 03-12-00677-CV                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | vacated                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | The Office of the Attorney General of Texas appealed a district court order granting summary judgment to Charles Trask Dix. After the appeal was filed, the parties reached an agreement and jointly requested that the appellate court set aside the judgment and remand for rendition of judgment according to that agreement. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                        |
| PARTIES               | Office of the Attorney General of Texas v. Charles Trask Dix                                                                                                                                                                                                                                                                     |

### TOPICS

[appellate procedure](#)[civil procedure](#)[summary judgment](#)

### PRACTICE AREAS

[appellate procedure](#)[civil procedure](#)

### QUESTIONS PRESENTED

1. Whether the appellate court should set aside the district court's judgment without addressing the merits and remand for rendition of judgment in accordance with the parties' agreement.

## HOLDINGS

1. Under Texas Rule of Appellate Procedure 42.1(a)(2)(B), the court may grant the parties' agreed motion, set aside the district court's judgment without regard to the merits, and remand for rendition of judgment in accordance with the parties' agreement.

## KEY QUOTATIONS

*“We grant the motion, set aside the district court's judgment without regard to the merits, and remand the cause to the district court for rendition of judgment in accordance with the parties' agreement.”*

## FACTUAL BACKGROUND

The district court entered an order granting summary judgment in favor of Charles Trask Dix. After the Office of the Attorney General of Texas filed its notice of appeal, the parties reached an agreement and both signed an agreed order.

## PROCEDURAL HISTORY

The District Court of Travis County, 353rd Judicial District, granted Dix's motion for summary judgment on June 8, 2012. The Attorney General filed a notice of appeal, then filed an agreed motion to set aside the judgment without reaching the merits because the parties had settled and filed an agreed order in the trial court. The court of appeals granted the motion and remanded for rendition of judgment consistent with the parties' agreement.

## DISPOSITION

vacated

## REMAND INSTRUCTIONS

Set aside the district court's judgment without regard to the merits and remand the cause to the district court for rendition of judgment in accordance with the parties' agreement.

## OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-12-00677-CV Office of the Attorney General of Texas, Appellant v. Charles Trask Dix, Appellee FROM THE DISTRICT COURT OF TRAVIS COUNTY, 353RD JUDICIAL DISTRICT NO. D-1-AG-12-000271, HONORABLE RHONDA HURLEY, JUDGE PRESIDING M E M O R A N D U M O P I N I O

N The Office of the Attorney General of Texas (OAG) filed a notice of appeal from the district court's order of June 8, 2012, granting summary judgment in favor of appellee Charles Trask Dix.

OAG has now filed an agreed motion to set aside the judgment. In the motion, OAG represents that "[s]ince the filing of the notice of appeal, the parties have reached an agreement in the cause and have filed an agreed order with the trial court." OAG asks that we set aside the district court's judgment without regard to the merits and remand the cause to the district court with instructions to render a judgment in accordance with the parties' agreement, as we are authorized to do pursuant to Texas Rule of Appellate Procedure 42.1(a)(2)(B).

The motion contains a certificate of conference verifying that the attorney for OAG has conferred with the attorney for Dix and that the attorney for Dix agrees to this motion. The agreed order, a copy of which is attached to the motion, has been signed by both parties.

We grant the motion, set aside the district court's judgment without regard to the merits, and remand the cause to the district court for rendition of judgment in accordance with the parties' agreement. See Tex. R. App. P. 42.1(a)(2)(B).

\_\_\_\_\_  
Bob Pemberton, Justice Before Justices  
Puryear, Pemberton and Rose Vacated and Remanded Filed: January 25, 2013