

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Heather Hughes v. Peter Giammanco

Hughes v. Giammanco · No. 01-18-00771-CV · Decided July 25, 2019

SUMMARY

The First Court of Appeals of Texas granted the appellant's unopposed motion to dismiss the appeal. The court dismissed the appeal with each party bearing its own appellate costs, vacated its May 30, 2019 judgment, declined to withdraw its prior opinion, and dismissed all other pending motions as moot.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Justice Keyes; Justice Higley; Justice Landau
JURISDICTION	Texas
DECIDED	July 25, 2019
DOCKET	01-18-00771-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed from the 129th District Court of Harris County and moved to dismiss the appeal without opposition.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Heather Hughes v. Peter Giammanco

TOPICS

appellate procedure mootness civil procedure

PRACTICE AREAS

Appellate procedure Civil procedure

QUESTIONS PRESENTED

1. Whether the unopposed motion to dismiss the appeal should be granted.
2. Whether the court's May 30, 2019 judgment should be vacated and its May 30, 2019 opinion withdrawn.

3. Whether the parties should bear their own appellate costs and whether the remaining motions should be dismissed as moot.

HOLDINGS

1. The court granted the unopposed motion and dismissed the appeal.
2. The court vacated its May 30, 2019 judgment but did not withdraw its May 30, 2019 opinion.
3. Each party was ordered to bear his or her own appellate costs.

KEY QUOTATIONS

“In dismissing a proceeding, the appellate court will determine whether to withdraw any opinion it has already issued.”

FACTUAL BACKGROUND

The opinion contains no substantive underlying facts. The material procedural facts are that the appellant moved without opposition to dismiss the appeal and that the parties agreed to bear their own appellate costs.

PROCEDURAL HISTORY

The appeal was pending before the First District Court of Appeals of Texas when Heather Hughes filed an unopposed motion to dismiss. The parties agreed that each would bear his or her own appellate costs. The court dismissed the appeal, vacated its May 30, 2019 judgment, declined to withdraw its May 30, 2019 opinion, and dismissed all other pending motions as moot.

DISPOSITION

dismissed

OPINION

Heather Hughes v. Peter Giammanco

PER CURIAM.

Opinion issued July 25, 2019 In The Court of Appeals For The First District of Texas

NO. 01-18-00771-CV

HEATHER HUGHES, Appellant V. PETER GIAMMANCO, Appellee On Appeal from the 129th District Court Harris County, Texas Trial Court Cause No. 2018-26459

MEMORANDUM OPINION

Appellant has filed an unopposed motion to dismiss the appeal. See TEX. R. APP. P. 10.3(a)(2), 42.1(a)(1). The parties have agreed that each will bear his or her own appellate costs. See TEX. R. APP. P. 42.1(d). Accordingly, we grant the unopposed motion and dismiss the appeal. See TEX. R. APP. P. 42.1(a)(1), (d), 43.2(f). We further vacate our May 30, 2019 judgment. We do not withdraw our opinion issued on May 30, 2019. See TEX. R. APP. P. 42.1(c) (“In dismissing a

proceeding, the appellate court will determine whether to withdraw any opinion it has already issued.”). We dismiss all other pending motions as moot.

PER CURIAM

Panel consists of Justices Keyes, Higley, and Landau. 2