COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

Chance M. Perry v. Courtney L. Perry

No. 09-25-00333-CV · No. No. 09-25-00333-CV · Decided June 18, 2026

SUMMARY

The Ninth Court of Appeals of Texas affirmed a summary judgment denying Chance M. Perry's petition for bill of review challenging a divorce decree entered following binding arbitration. The court held that Perry waived his complaints by agreeing to arbitration, participating with counsel, and voluntarily dismissing his prior appeal, and that his amended petition did not present new claims requiring separate summary-judgment analysis. The court distinguished Costanzo v. Texas Advantage Community Bank N.A. and affirmed the trial court's judgment.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	Leanne Johnson; Golemon, C.J.; Johnson, J.; Wright, J.
JURISDICTION	Court of Appeals for the Ninth District of Texas at Beaumont
DECIDED	June 18, 2026
DOCKET	No. 09-25-00333-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a summary judgment granting Courtney Perry's motion for summary judgment and denying Chance Perry's petition for bill of review.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, taking as true evidence favorable to the nonmovant, indulging every reasonable inference in the nonmovant's favor, and resolving doubts in the nonmovant's favor. The denial of a bill of review is generally reviewed for abuse of discretion, while questions of law in a bill-of-review proceeding are reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Chance M. Perry v. Courtney L. Perry

TOPICS

summary judgment · divorce · arbitration · family law procedure · appellate procedure

PRACTICE AREAS

family law | civil procedure | appellate procedure | remedies

QUESTIONS PRESENTED

1. Whether the trial court properly granted traditional summary judgment against Chance Perry's petition for bill of review.
2. Whether Chance Perry's amended petition rendered Courtney Perry's summary-judgment motion moot because the amended petition allegedly asserted new claims not addressed by the motion.
3. Whether Chance Perry's voluntary dismissal of his timely appeal and his agreement to binding arbitration established waiver and prevented him from obtaining a bill of review.

HOLDINGS

1. The amended petition did not render the summary-judgment motion moot because it did not assert new causes of action or materially different claims; both the original and amended petitions sought to set aside the divorce decree on the same bill-of-review grounds.
2. Chance was not entitled to a bill of review because he had an adequate remedy by ordinary appeal, pursued that remedy, and voluntarily dismissed the appeal; his failure to continue challenging the decree was attributable to his own choice.
3. Courtney conclusively established waiver of Chance's complaints about the arbitration and jury trial because Chance and his counsel signed a binding arbitration agreement, participated in the arbitration without objection, and had opportunities to object or seek to vacate the award.

KEY QUOTATIONS

> *"A party moving for a traditional summary judgment meets its burden by proving that there is no genuine issue of material fact and it is entitled to judgment as a matter of law."* (at 7)

> *"A bill of review is an equitable proceeding filed by a party seeking to set aside a judgment that can no longer be challenged by a motion for new trial or appeal."* (at 8)

> *"We conclude that Courtney conclusively established that Chance's failure to challenge the divorce decree and arbitration, or to continue with his appeal of the Divorce Decree was due to his own choice, and Courtney conclusively established her affirmative defense of waiver and that Chance was not entitled to a bill of review."* (at 12)

FACTUAL BACKGROUND

Chance and Courtney Perry were divorced by a final decree entered in May 2023 following a binding arbitration agreement and an order referring the matter to arbitration. Chance was represented by counsel during the referral, arbitration, and entry of the decree, and he timely appealed the decree but voluntarily dismissed that appeal. More than a year later, he filed a bill of review alleging that he had been denied a jury trial, compelled to participate in unfair arbitration, and denied a greater share of the marital estate; he later filed an amended petition raising the same basic grounds.

PROCEDURAL HISTORY

The parties were divorced in May 2023 after participating in binding arbitration. Chance Perry timely appealed the divorce decree but nonsuited that appeal. He later filed a petition for bill of review seeking to set aside the decree based on alleged denial of a jury trial, involuntary arbitration, and an unfair division of the marital estate. After Courtney Perry moved for traditional summary judgment, Chance filed an amended petition and argued that the motion had become moot because it did not address newly alleged claims. The trial court granted summary judgment, and the Ninth District Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Perry v. Perry, No. 09-23-00227-CV, 2024 Tex. App. LEXIS 2533 (Tex. App.—Beaumont Apr. 11, 2024, no pet.) (mem. op.)
- In re Perry, No. 09-23-00279-CV, 2023 Tex. App. LEXIS 7475 (Tex. App.—Beaumont Sept. 28, 2023, no pet.) (mem. op.)
- Perry v. Perry, No. 09-24-00342-CV, 2025 Tex. App. LEXIS 9516 (Tex. App.—Beaumont Dec. 11, 2025, no pet.) (mem. op.)
- Cantey Hanger, LLP v. Byrd, 467 S.W.3d 477, 481 (Tex. 2015)
- Valence Operating Co. v. Dorsett, 164 S.W.3d 656, 661 (Tex. 2005)
- McConnell v. Southside Indep. Sch. Dist., 858 S.W.2d 337, 341 (Tex. 1993)
- McRoberts v. Ryals, 863 S.W.2d 450, 453 (Tex. 1993)
- Caldwell v. Barnes, 154 S.W.3d 93, 96 (Tex. 2004) (per curiam)
- WWLC Inv., L.P. v. Miraki, 624 S.W.3d 796, 799 (Tex. 2021) (per curiam)
- King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 751 (Tex. 2003)
- Lopez v. Lopez, 757 S.W.2d 721, 723 (Tex. 1988)
- Petro-Chemical Transp., Inc. v. Carroll, 514 S.W.2d 240, 246 (Tex. 1974)
- Valdez v. Hollenbeck, 465 S.W.3d 217, 226 (Tex. 2015)
- Alexander v. Hagedorn, 226 S.W.2d 996, 998 (Tex. 1950)
- Gonzalez v. Tapia, 287 S.W.3d 805, 807 (Tex. App.—Corpus Christi-Edinburg 2009, pet. denied)
- Garza v. Att'y Gen., 166 S.W.3d 799, 808 (Tex. App.—Corpus Christi-Edinburg 2005, no pet.)
- Costanzo v. Texas Advantage Community Bank N.A., No. 09-21-00345-CV, 2022 Tex. App. LEXIS 7249 (Tex. App.—Beaumont Sept. 29, 2022, no pet.) (mem. op.)
- McIntyre v. Wilson, 50 S.W.3d 674, 679 (Tex. App.—Dallas 2001, pet. denied)
- In re A.G., No. 07-19-00161-CV, 2020 Tex. App. LEXIS 4270, at **6-7 (Tex. App.—Amarillo June 8, 2020, pet. denied) (mem. op.)
- Shaw v. Shaw, No. 09-17-00112-CV, 2018 Tex. App. LEXIS 926, at **8-9 (Tex. App.—Beaumont Feb. 1, 2018, no pet.) (mem. op.)

- McCurdy v. Oeftering, No. 05-14-01353-CV, 2016 Tex. App. LEXIS 1784, at *3 (Tex. App.—Dallas Feb. 19, 2016, no pet.) (mem. op.)
- Bergenholtz v. Eskenazi, No. 05-14-00609-CV, 2015 Tex. App. LEXIS 7680, at **8-9 (Tex. App.—Dallas July 23, 2015, pet. denied)

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