

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Texas Department of Public Safety; Steve McGraw, in His Official Capacity as Director of the Texas Department of Public Safety Commission; and Allan B. Polunsky, in His Official Capacity as Chairman of the Public Safety Commission v. Miguel Salazar; Edgar Soria; Francisco Avila Trejo; Green Meadows Landscaping, Inc.; Merida Flores; Nader Dalo; Godofredo A. Orellana; and Ruwaidha Liwaza

Texas Department of Public Safety v. Salazar · No. 03-11-00206-CV · Decided April 14, 2011

SUMMARY

This dissenting opinion addresses appellees' emergency motion to dismiss an interlocutory appeal. Justice Melissa Goodwin would have requested a response from the appellants before ruling, given impending deadlines for a dispositive-motions hearing and trial setting.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Melissa Goodwin, Justice; Chief Justice Jones; Justice Henson; Justice Goodwin
JURISDICTION	Texas
DECIDED	April 14, 2011
DOCKET	03-11-00206-CV
DISPOSITION	other
PROCEDURAL POSTURE	Dissent from the court's ruling on appellees' emergency motion to dismiss an interlocutory appeal without first requesting a response from appellants.
PRECEDENTIAL VALUE	Dissenting opinion; no independent binding precedential holding
PARTIES	Texas Department of Public Safety, Steve McGraw, in his Official Capacity as Director of the Texas Department of Public Safety Commission, Allan B. Polunsky, in his Official Capacity as Chairman of the Public Safety Commission v. Miguel Salazar, Edgar Soria,

TOPICS

interlocutory appeal appellate procedure civil procedure

PRACTICE AREAS

appellate procedure civil procedure

QUESTIONS PRESENTED

1. Whether the court should request a response from appellants before ruling on appellees' emergency motion to dismiss the interlocutory appeal.

KEY QUOTATIONS

"Because I would request a response before ruling on appellees' emergency motion for dismissal of this interlocutory appeal, I respectfully dissent."

FACTUAL BACKGROUND

The underlying proceeding had a dispositive-motion hearing set for April 27, 2011, and a trial setting of May 9, 2011. Those approaching deadlines prompted appellees to file an emergency motion to dismiss the interlocutory appeal.

PROCEDURAL HISTORY

The case arose from an interlocutory appeal from the District Court of Travis County, 345th Judicial District, in cause number D-1-GN-09-000273. Appellees filed an emergency motion seeking dismissal of the appeal, citing impending deadlines for a dispositive-motion hearing on April 27, 2011, and trial on May 9, 2011. Justice Goodwin would have requested a response from appellants before ruling on the motion.

DISPOSITION

other

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-11-00206-CV Texas Department of Public Safety; Steve McGraw, in his Official Capacity as Director of the Texas Department of Public Safety Commission; and Allan B. Polunsky, in his Official Capacity as Chairman of the Public Safety Commission, Appellants v. Miguel Salazar; Edgar Soria; Francisco Avila Trejo; Green Meadows Landscaping, Inc.; Merida Flores; Nader Dalo; Godofredo A.

Orellana; and Ruwaidha Liwaza, Appellees FROM THE DISTRICT COURT OF TRAVIS COUNTY, 345TH JUDICIAL DISTRICT NO. D-1-GN-09-000273, HONORABLE ORLINDA NARANJO, JUDGE PRESIDING DISSENTING OPINION Because I would request a response before ruling on appellees' emergency motion for dismissal of this interlocutory appeal, I respectfully dissent.

See Tex. R. App. P. 10.3. According to appellees' motion, the deadlines in the underlying proceeding at issue are April 27, 2011, for a hearing on dispositive motions, and the trial setting of May 9, 2011. Given these dates, I would give appellants an opportunity to respond before ruling on the merits of the motion. _____ Melissa

Goodwin, Justice Before Chief Justice Jones, Justices Henson and Goodwin Filed: April 14, 2011