

TEXAS COURT OF APPEALS, ELEVENTH DISTRICT AT EASTLAND

The Navigator Group et al. v. Susan Davis Van Dyke et al.

No. 11-24-00007-CV (Tex. App.—Eastland Feb. 27, 2026) · No. 11-24-00007-CV · Decided February 27, 2026

SUMMARY

The Texas Eleventh Court of Appeals affirmed a trial court judgment holding that a 1924 deed reserved the Mulkeys an undivided one-half of the entire mineral estate. The court rejected the argument that the deed separately reserved only a fixed one-sixteenth royalty interest, concluding that the Texas Supreme Court’s decision in *Van Dyke II* governed the dispute. The court also declined to revisit *Van Dyke II* under the doctrines of *stare decisis* and law of the case.

CASE DETAILS

COURT	Texas Court of Appeals, Eleventh District at Eastland
WRITING FOR THE COURT	John M. Bailey, Chief Justice; Sandee B. Marion, Senior Chief Justice (Retired), sitting by assignment
JURISDICTION	Texas Court of Appeals, Eleventh District
DECIDED	February 27, 2026
DOCKET	11-24-00007-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment entered on remand after the Texas Supreme Court reversed the court of appeals’ prior construction of a 1924 mineral reservation and remanded for further proceedings.
STANDARD OF REVIEW	Deed construction is reviewed de novo. An unambiguous deed may be construed as a matter of law, using the four-corners rule and considering all language in the instrument. Where a summary judgment order does not specify its grounds, the judgment must be affirmed if any preserved ground is meritorious.
PRECEDENTIAL VALUE	published
PARTIES	Blake Oil & Gas Corp., Jack E. Blake, Jr., Rick Ybarra, as Trustee of the Logan Lee Blake Trust, Betty Lou Angelo, Ernest Angelo, Jr., S. Javaid Anwar, Brendan J. Fikes Family Partnership, Ltd., Navigator Oil & Minerals, Inc., Michael J. Daniel, Dingus Investments, Inc., Discovery Exploration Partnership, MTX Interests, L.P., Kennedy Minerals, Ltd., The Ninety-Six Corp., Keith M. Skaar, Blake Wood,

JPMorgan Chase, N.A., as Trustee of the G.R. White Charitable Trust and the Joy Lina White Ubina Trust v. Susan Davis Van Dyke, Estate of Stephen L. Davis, Deceased, Sheryl Ann Huttner, f/k/a Ann Mulkey Bell, Estate of Kay Elaine Keys, Deceased, Jill Marie Stuckert, a/k/a Jill Marie Walker, George Dan Mulkey and Thomas J. Mulkey, Trustees of the Mulkey Family Mineral Trust, Arthur B. Davis, Boyd Enterprises, Inc., The Huffington Foundation, Bishop-Windham Family Limited Partnership, The Dillon Fund, Terry S. Key, Trustee of the Terry S. Key Non-Exempt Trust, Roger A. Key, Trustee of the Roger A. Key Non-Exempt Trust, Pam Stribling and John V. Price as Heirs and Successors of Interest to Noble H. Price, Preston Bridgewater, Jr., James G. McClellan, Independent Executor of Estate of Hayden J. Upchurch, Deceased, Deborah L. Alexander, Trustee of the DLA Child's Trust, Amanda Kay Livingston, Trustee of the AKL Child's Trust, Culley Ingram, Trustee of the CI Grandchild's Trust, Kerry Kantman, Trustee of the KK Grandchild's Trust, McKenzie Ciliberto, Trustee of the MC Grandchild's Trust, Ryedale, LLC, Jane R. Lancaster, Raymond James Trust, N.A., Trustees of the Edith Elizabeth Brasher 1986 Management Trust, William Marsh Rice University, Howard W. Key, Trustee of the Howard W. Key Non-Exempt Trust, Charles E. Key, Trustee of the Charles E. Key Non-Exempt Trust, G&R Carr Enterprises, LLC, Dorchester Minerals, LP, Deutsche Bank Trust Company, N.A. and Irving Sitnick, Trustees of the Lucy G. Moses 12/24/58 Trust, Deutsche Bank Trust Company, N.A., Trustee of the Henry & Lucy Moses Foundation Trust, Deutsche Bank Trust Company, N.A. and William H. Hernstadt, Trustees of the William H. Hernstadt Estate Trust, Deutsche Bank Trust Company, N.A., Trustee of the William L. Hernstadt 1937 Trust, Freeport-McMoRan Oil & Gas LLC, PXP Producing Company LLC, Renee Brunson, Gary Covington, Kyle Covington, Lisa Graham, Kirk Covington, Earmark Enterprises, Dela Minerals, Inc. by and through Covington Minerals, LP, Endeavor Energy Resources, LP, Dave Michael McCullar, Frederick Bartlett Wulff, Sr., Richard W. Winters, Jr., Kathleen M. Winters

TOPICS

mineral rights

oil and gas

deeds

appellate procedure

standard of review

PRACTICE AREAS

oil and gas

mineral rights

real estate

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court correctly applied the Texas Supreme Court's decision in *Van Dyke II* by declaring that the Mulkeys reserved an undivided one-half of the entire mineral estate, rather than one-half of the minerals coupled with a fixed one-sixteenth royalty interest.
2. Whether the court of appeals should disregard or overrule *Van Dyke II* as wrongly decided.
3. Whether the trial court's summary judgment could be affirmed on the presumed-grant doctrine as an alternative ground.

HOLDINGS

1. The trial court correctly held that the 1924 deed reserved an undivided one-half of the entire mineral estate, including the corresponding right to royalties, and did not create or reserve a fixed one-sixteenth royalty interest.
2. The court of appeals could not overrule or disregard *Van Dyke II* because only the Texas Supreme Court may abrogate its own established precedent.
3. The court did not need to reach the presumed-grant doctrine because summary judgment was proper on the independent ground that the express terms of the 1924 deed reserved one-half of the mineral estate.

KEY QUOTATIONS

"The Texas Supreme Court determined in Van Dyke II that "the Mulkey parties hold title to 1/2 of the mineral estate" without further qualification." (at 8)

"Simply put, the 1924 deed did not create a royalty interest." (at 12)

"By contrast, "[i]t is not the function of a court of appeals to abrogate or modify established precedent" of the Texas Supreme Court." (at 14)

"In light of our conclusion that summary judgment was proper on the ground that the Mulkeys reserved a one-half interest in the mineral estate under the express terms of the 1924 deed, we need not address the alternative ground of the presumed-grant doctrine." (at 17)

FACTUAL BACKGROUND

A 1924 deed conveyed ranch property in Howard and Martin Counties while reserving to George H. Mulkey and Frances E. Mulkey "one-half of one-eighth" of the minerals and mineral rights. The parties disputed for years whether that language reserved one-sixteenth of the mineral estate or one-half of the mineral estate. The Texas Supreme Court previously held that the deed reserved one-half of the mineral estate and remanded the case. On remand, the trial court entered judgment declaring that the Mulkey successors held an undivided one-half of the entire mineral estate, including the corresponding royalty rights.

PROCEDURAL HISTORY

The trial court initially held that the 1924 deed reserved a one-sixteenth mineral interest, and the court of appeals affirmed in *Van Dyke I*. The Texas Supreme Court reversed in *Van Dyke II*, holding that the deed reserved one-half of the mineral estate and remanding because the Mulkey successors had not moved for summary judgment

on deed construction. On remand, the trial court entered judgment holding that the Mulkeys reserved an undivided one-half of the entire mineral estate. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Van Dyke v. Navigator Grp., 647 S.W.3d 901 (Tex. App.—Eastland 2020)
- Van Dyke v. Navigator Grp., 668 S.W.3d 353 (Tex. 2023)
- Lubbock Cnty., Tex. v. Trammel’s Lubbock Bail Bonds, 80 S.W.3d 580 (Tex. 2002)
- Briscoe v. Goodmark Corp., 102 S.W.3d 714 (Tex. 2003)
- Hysaw v. Dawkins, 483 S.W.3d 1 (Tex. 2016)
- Piranha Partners v. Neuhoﬀ, 596 S.W.3d 740 (Tex. 2020)
- Pacer Energy, Ltd. v. Endeavor Energy Res., LP, 675 S.W.3d 390 (Tex. App.—Eastland 2023, pet. denied)
- ConocoPhillips Co. v. Koopmann, 547 S.W.3d 858 (Tex. 2018)
- J. Hiram Moore, Ltd. v. Greer, 172 S.W.3d 609 (Tex. 2005)
- Endeavor Energy Res., L.P. v. Discovery Operating, Inc., 554 S.W.3d 586 (Tex. 2018)
- Luckel v. White, 819 S.W.2d 459 (Tex. 1991)
- Wenske v. Ealy, 521 S.W.3d 791 (Tex. 2017)
- French v. Chevron U.S.A. Inc., 896 S.W.2d 795 (Tex. 1995)
- Schlittler v. Smith, 101 S.W.2d 543 (Tex. 1937)
- State National Bank v. Morgan, 143 S.W.2d 757 (Tex. 1940)
- Woods v. Sims, 273 S.W.2d 617 (Tex. 1954)
- Mitschke v. Borromeo, 645 S.W.3d 251 (Tex. 2022)
- Weiner v. Wasson, 900 S.W.2d 316 (Tex. 1995)
- Grapevine Excavation, Inc. v. Maryland Lloyds, 35 S.W.3d 1 (Tex. 2000)
- Vasquez v. Hillery, 474 U.S. 254 (1986)
- Sw. Bell Tel. Co., L.P. v. Mitchell, 276 S.W.3d 443 (Tex. 2008)
- Swilley v. McCain, 374 S.W.2d 871 (Tex. 1964)
- State v. Standard, 401 S.W.2d 363 (Tex. App.—Eastland 1966), rev’d on other grounds, 414 S.W.2d 148 (Tex. 1967)
- In re State Farm Mut. Auto. Ins. Co., 614 S.W.3d 316 (Tex. App.—Fort Worth 2020, orig. proceeding)
- Eriksen v. Nelson, 708 S.W.3d 302 (Tex. App.—15th Dist. 2025, no pet.)
- Deaton v. Law Offices of Steven M. Johnson, P.C., 697 S.W.3d 676 (Tex. App.—Eastland 2024, no pet.)
- Paradigm Oil, Inc. v. Retamco Operating, Inc., 372 S.W.3d 177 (Tex. 2012)
- Hjella v. Red McCombs Motors, Ltd., No. 04-23-00145-CV, 2024 WL 3954214, at *2 (Tex. App.—San Antonio Aug. 28, 2024, no pet.)

- City of Houston v. Precast Structures, Inc., 60 S.W.3d 331 (Tex. App.—Houston [14th Dist.] 2001, pet. denied)
- Fair v. Arp Club Lake, Inc., 437 S.W.3d 619 (Tex. App.—Tyler 2014, no pet.)
- Provident Life & Acc. Ins. Co. v. Knott, 128 S.W.3d 211 (Tex. 2003)
- Cincinnati Life Ins. Co. v. Cates, 927 S.W.2d 623 (Tex. 1996)
- Carr v. Brasher, 776 S.W.2d 567 (Tex. 1989)
- Star-Telegram, Inc. v. Doe, 915 S.W.2d 471 (Tex. 1995)
- State v. Ninety Thousand Two Hundred Thirty-Five Dollars & No Cents in U.S. Currency (\$90,235), 390 S.W.3d 289 (Tex. 2013)

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