

COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS  
CHRISTI-EDINBURG

Kathleen Marie Coffen-Diaz Deleon v. Martin Diaz Deleon Jr.

Coffen-Diaz Deleon · No. 13-13-00042-CV · Decided June 6, 2013

SUMMARY

The Texas Thirteenth Court of Appeals reinstated an appeal that had been abated for mediation and granted the appellant's amended unopposed motion to dismiss. The appeal was dismissed under Texas Rule of Appellate Procedure 42.1(a), with costs taxed against the appellant, and the court stated that its mandate would issue forthwith.

CASE DETAILS

|                       |                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Texas, Thirteenth District, Corpus Christi-Edinburg                                                                        |
| WRITING FOR THE COURT | Per Curiam; Justice Rodriguez; Justice Garza; Justice Perkes                                                                                   |
| JURISDICTION          | Texas                                                                                                                                          |
| DECIDED               | June 6, 2013                                                                                                                                   |
| DOCKET                | 13-13-00042-CV                                                                                                                                 |
| DISPOSITION           | dismissed                                                                                                                                      |
| PROCEDURAL POSTURE    | Appellant moved to dismiss the appeal after the parties successfully mediated the case. The court granted the motion and dismissed the appeal. |
| PRECEDENTIAL VALUE    | Published                                                                                                                                      |
| PARTIES               | Kathleen Marie Coffen-Diaz Deleon v. Martin Diaz Deleon Jr.                                                                                    |

TOPICS

- appellate procedure
- mediation
- motions to dismiss
- costs
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure
- mediation

QUESTIONS PRESENTED

1. Whether the court should grant appellant's amended unopposed motion to dismiss the appeal after successful mediation.
2. How costs should be assessed following dismissal at appellant's request.

#### HOLDINGS

1. The court granted appellant's amended unopposed motion and dismissed the appeal under Texas Rule of Appellate Procedure 42.1(a).
2. Absent an agreement of the parties, costs were taxed against appellant.

#### KEY QUOTATIONS

*“Absent agreement of the parties, the court will tax costs against the appellant.” (at 2)*

#### FACTUAL BACKGROUND

The parties participated in court-ordered mediation after the appellate court abated the appeal. The mediation was successful, and appellant requested dismissal of the appeal through an amended unopposed motion.

#### PROCEDURAL HISTORY

The appeal from the County Court at Law of Aransas County was abated on February 6, 2013, and the parties were ordered to mediation. After successful mediation, appellant filed an amended unopposed motion to dismiss the appeal. The court reinstated the appeal, granted the motion, dismissed the appeal, assessed costs against appellant, and ordered its mandate to issue forthwith.

#### DISPOSITION

dismissed

#### OPINION

PER CURIAM.

NUMBER 13-13-00042-CV COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS  
CORPUS CHRISTI - EDINBURG

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KATHLEEN MARIE  
COFFEN-DIAZ DELEON, Appellant, v. MARTIN DIAZ DELEON JR., Appellee.

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On appeal from the  
County Court at Law of Aransas County, Texas.

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MEMORANDUM  
OPINION Before Justices Rodriguez, Garza, and Perkes Memorandum Opinion Per Curiam This  
appeal was abated by this Court on February 6, 2013, and the parties were ordered to mediation.

This cause is now before the Court on appellant's amended unopposed motion to dismiss the appeal on grounds that the parties have successfully mediated this case. Appellant requests that this Court dismiss the appeal.

Accordingly, this case is hereby REINSTATED. The Court, having considered the documents on file and appellant's motion to dismiss the appeal, is of the opinion that the motion should be granted. See TEX. R. APP. P. 42.1(a). Appellant's motion to dismiss is granted, and the appeal is hereby DISMISSED. Costs will be taxed against appellant. See TEX. R. APP. P. 42.1(d) ("Absent agreement of the parties, the court will tax costs against the appellant.").

Having dismissed the appeal at appellant's request, no motion for rehearing will be entertained, and our mandate will issue forthwith. PER CURIAM Delivered and filed the 6th day of June, 2013. 2