

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Cresencio Bastida v. Abel's Mobile Home Service, Inc.

No. 05-12-01467-CV; 05-12-01469-CV, Court of Appeals for the Fifth District of Texas at Dallas (June 21, 2013)

SUMMARY

The Fifth District Court of Appeals at Dallas vacated a prior order concerning an overdue clerk’s record because the appeal had been docketed twice under two appellate cause numbers. The court directed that all documents from cause number 05-12-01467-CV be transferred to cause number 05-12-01469-CV and administratively closed the former case.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Per curiam; Carolyn Wright
JURISDICTION	Texas
DECIDED	June 21, 2013
DOCKET	05-12-01467-CV; 05-12-01469-CV
DISPOSITION	vacated
PROCEDURAL POSTURE	The court addressed the duplicative docketing of two notices of appeal arising from the same underlying matter and entered an administrative order concerning the appellate records.
PRECEDENTIAL VALUE	Not stated in the source
PARTIES	Cresencio Bastida v. Abel's Mobile Home Service, Inc., Et al.

TOPICS

- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- How should the court handle two separately docketed but otherwise identical notices of appeal arising from different trial-court cause numbers?

KEY QUOTATIONS

“Accordingly, we VACATE our June 19, 2013 order in cause number 05-12-01467-CV. We DIRECT the Clerk of the Court to transfer all documents from cause number 05-12-01467-CV into cause number 05-12-01469-CV.”

FACTUAL BACKGROUND

Two separate notices of appeal were filed in the Collin County district court proceedings, one associated with trial court cause number 296-02287-06 and the other with cause number 199-02287-06. The notices were otherwise identical, resulting in duplicate appellate docketing. The district clerk confirmed that the clerk's record had been filed in appellate cause number 05-12-01469-CV.

PROCEDURAL HISTORY

Two identical notices of appeal, differing only in their trial-court cause numbers, were filed and assigned separate appellate cause numbers. After the court issued an order regarding an overdue clerk's record, the Collin County District Clerk advised that the clerk's record had been filed in cause number 05-12-01469-CV and that the appeal had been docketed twice. The court vacated its prior June 19, 2013 order, transferred the documents from cause number 05-12-01467-CV to cause number 05-12-01469-CV, and administratively closed cause number 05-12-01467-CV.

DISPOSITION

vacated