

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

Nancy Fernandez-Graham v. Kenneth Graham

Fernandez-Graham · No. 08-23-00198-CV · Decided August 22, 2023

SUMMARY

The Eighth District Court of Appeals of Texas granted Appellant Nancy Fernandez-Graham’s unopposed motion to dismiss the appeal under Texas Rule of Appellate Procedure 42.1(a)(1). The court dismissed the appeal, taxed costs against Appellant, and denied all other pending motions as moot.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District, El Paso
WRITING FOR THE COURT	Yvonne T. Rodriguez, Chief Justice; Rodriguez, C.J.; Palafox, J.; Soto, J.
JURISDICTION	Texas
DECIDED	August 22, 2023
DOCKET	08-23-00198-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant moved to dismiss her pending appeal, and the appellee did not oppose the motion.
PRECEDENTIAL VALUE	Published memorandum opinion; no reporter citation appears in the provided text.
PARTIES	Nancy Fernandez-Graham v. Kenneth Graham

TOPICS

- appellate procedure
- civil procedure
- costs

PRACTICE AREAS

- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

1. Whether the court should dismiss the appeal on Appellant's unopposed motion before issuing an appellate opinion.

HOLDINGS

1. The court may dismiss the appeal in accordance with Appellant's unopposed motion before issuing an opinion, and the court granted the motion and dismissed the appeal.
2. Appellate costs are taxed against Appellant.

KEY QUOTATIONS

“Accordingly, as we have not yet issued an opinion in this case, we grant the motion and dismiss the appeal pursuant to Texas Rule of Appellate Procedure 42.1(a)(1).”

“Costs of the appeal are taxed against Appellant.”

FACTUAL BACKGROUND

The appeal arose from proceedings in the 456th Judicial District Court of Guadalupe County, Texas. Before the appellate court issued an opinion, Nancy Fernandez-Graham moved to dismiss the appeal, and Kenneth Graham did not oppose the motion.

PROCEDURAL HISTORY

The appeal was taken from the 456th Judicial District Court of Guadalupe County, Texas, in trial court cause number 18-1579-CV-A. Before issuing an opinion, the Court of Appeals granted Appellant's unopposed motion to dismiss the appeal under Texas Rule of Appellate Procedure 42.1(a)(1), taxed appellate costs against Appellant, and denied all other pending motions as moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS NANCY FERNANDEZ-GRAHAM, § No. 08-23-00198-CV Appellant, § Appeal from the v. § 456th Judicial District Court KENNETH GRAHAM, § of Guadalupe County, Texas Appellee. § (TC#18-1579-CV-A) MEMORANDUM OPINION This appeal is before the Court on Appellant’s unopposed motion to dismiss. 1 Accordingly, as we have not yet issued an opinion in this case, we grant the motion and dismiss the appeal pursuant to Texas Rule of Appellate Procedure 42.1(a)(1).

See TEX. R. APP. P. 42.1(a)(1) (the Court may dismiss an appeal in accordance with a motion of appellant). Costs of the appeal are taxed against Appellant. TEX. R. APP. P. 42.1(d). All other pending motions are denied as moot. YVONNE T. RODRIGUEZ, Chief Justice August 22, 2023 Before Rodriguez, C.J., Palafox, and Soto, J.J. 1 This case was transferred from the Fourth Court of Appeals pursuant to a docket equalization order issued by the Supreme Court of Texas.

See TEX. GOV'T CODE ANN. § 73.001. We follow the precedent of the Fourth Court of Appeals to the extent it might conflict with our own. See TEX. R. APP. P. 41.3.

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