

**COURT OF APPEALS OF THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO**

Stephen Patrick Black v. Charles P. Woodrick

No. 07-20-00083-CV · No. No. 07-20-00083-CV · Decided March 23, 2021

SUMMARY

The Texas Court of Appeals for the Seventh District reversed the dismissal of Stephen Patrick Black's defamation suit against Charles P. Woodrick. The court held that the motion to dismiss under the Texas Citizens Participation Act was denied by operation of law because the trial court ruled after the statutory deadline, and that Texas Rule of Civil Procedure 91a could not provide an alternative basis because its ruling deadline had also passed.

CASE DETAILS

COURT	Court of Appeals of the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Per Curiam; Quinn, C.J.; Pirtle, J.; Parker, J.
JURISDICTION	Texas
DECIDED	March 23, 2021
DOCKET	No. 07-20-00083-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Black, proceeding pro se and in forma pauperis, appealed the trial court's order dismissing his defamation suit against Woodrick. The appeal challenged dismissal under the Texas Citizens Participation Act, and the court also addressed whether dismissal could have been based on Texas Rule of Civil Procedure 91a.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is stated as published in the provided metadata.
PARTIES	Stephen Patrick Black v. Charles P. Woodrick

TOPICS

[motions to dismiss](#) [appellate procedure](#) [civil procedure](#) [defamation](#) [free speech](#)

PRACTICE AREAS

[Civil procedure](#) [Appellate procedure](#) [Defamation](#) [Constitutional law](#)

QUESTIONS PRESENTED

1. Whether the trial court's January 16, 2020 dismissal under the Texas Citizens Participation Act was untimely and therefore denied by operation of law.
2. Whether Texas Rule of Civil Procedure 91a could provide a basis for the trial court's dismissal when the court did not hold the hearing until after Rule 91a's deadline for ruling.

HOLDINGS

1. Because the trial court did not rule on the TCPA motion within the statutory deadline, the motion was denied by operation of law, and the January 16, 2020 dismissal order could not be sustained under the TCPA.
2. Rule 91a could not provide a basis for the dismissal because the trial court did not hold the hearing until after the rule's deadline for granting or denying the motion.

KEY QUOTATIONS

“Accordingly, the trial court’s dismissal order signed on January 16, 2020, was untimely, and under section 27.008, the Motion to Dismiss was denied by operation of law.” (at 4)

“Under either analysis, we conclude the trial court erred in attempting to grant a motion to dismiss which it could no longer consider.” (at 5)

FACTUAL BACKGROUND

Black was civilly committed as a sexually violent predator after his release from prison. Charles P. Woodrick, a psychologist contracted by the Texas Civil Commitment Office, conducted Black's required biennial examination and submitted a report stating, according to Black, that he had five counts for indecency with a child and had been convicted in an incorrect county. After Woodrick declined to make the requested corrections, Black sued him for defamation.

PROCEDURAL HISTORY

Black sued Woodrick for defamation on February 20, 2019, after Woodrick declined to correct alleged inaccuracies in a biennial evaluation report. Woodrick moved to dismiss under Rule 91a and the Texas Citizens Participation Act. Although the motion hearing occurred on July 5, 2019, the trial court did not sign its dismissal order until January 16, 2020. The court of appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the trial court for further proceedings.

CASES CITED

- ExxonMobil Pipeline Co. v. Coleman, 512 S.W.3d 895, 898 (Tex. 2017)
- MedFin Manager, LLC v. Stone, No. 04-19-00662-CV, 2020 Tex. App. LEXIS 6838, at *6-*7 (Tex. App.—San Antonio Aug. 26, 2020, no pet.)

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