

COURT OF APPEALS OF TEXAS, TENTH DISTRICT

**In the Matter of the Marriage of Douglas Capener and Kristen
Yarbrough aka Kristen Capener and in the Interest of B.C. and K.C.,
Children**

In re Marriage of Capener · No. 10-22-00157-CV · Decided June 8, 2022

OPINION

PER CURIAM.

IN THE TENTH COURT OF APPEALS No. 10-22-00157-CV IN THE MATTER OF THE MARRIAGE OF DOUGLAS CAPENER AND KRISTEN YARBROUGH AKA KRISTEN CAPENER AND IN THE INTEREST OF B.C. AND K.C., CHILDREN From the 361st District Court Brazos County, Texas Trial Court No. 16-001458-CVD-361 MEMORANDUM OPINION Douglas Capener appealed the trial court's Order on Petitioner's Request for De Novo Relief.

Capener now moves to dismiss his appeal because the trial court has signed an Agreed Order Granting Motion for New Trial vacating the Order on Petitioner's Request for De Novo Relief. No party will be prevented from seeking relief to which they are entitled if the motion is granted.

Accordingly, Capener's motion to dismiss is granted, and this appeal is dismissed. See TEX. R. APP. P. 42.1(a)(1). There being no agreement otherwise, costs are taxed against Capener. See *id.* (d). Capener's filing fee has not been paid. Absent a specific exemption, the Clerk of the Court must collect filing fees at the time a document is presented for filing.

TEX. R. APP. P. 12.1(b); Appendix to TEX. R. APP. P., Order Regarding Fees (Amended Aug. 28, 2007, eff. Sept. 1, 2007). See also TEX. R. APP. P. 5; TEX. GOV'T CODE §§ 51.207(b); 51.208; § 51.941(a). Under these circumstances, we suspend the rule and order the Clerk to write off all unpaid filing fees in this case. TEX. R. APP. P. 2.

The write-off of the fees from the accounts receivable of the Court in no way eliminates or reduces the fees owed by Capener. TOM GRAY Chief Justice Before Chief Justice Gray, Justice Johnson, and Justice Davis 1 Appeal dismissed Opinion delivered and filed June 8, 2022 [CV06] 1 The Honorable Rex Davis, Senior Justice (Retired) of the Tenth Court of Appeals, sitting by assignment of the Chief Justice of the Texas Supreme Court.

See TEX. GOV'T CODE §§ 74.003, 75.002, 75.003. In the Matter of the Marriage of Capener
Page 2

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/texas-court-of-appeals-of-texas-tenth-district/2022/in-the-matter-of-the-marriage-of-douglas-capener-and-wk1ra1cg>