COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS, CORPUS CHRISTI–EDINBURG

Wynn's Extended Care Inc. v. Horacio Castillo

Wynn's Extended Care · No. 13-26-00192-CV · Decided April 2, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas granted the parties’ agreed motion to withdraw the appeal and dismissed the appeal without prejudice under Texas Rule of Appellate Procedure 42.1(a)(2). The dismissal followed the trial court’s grant of a new trial, and appellate costs were taxed against the appellant.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas, Corpus Christi–Edinburg
WRITING FOR THE COURT	Justice Jenny Cron; Chief Justice Tijerina; Justice West; Justice Cron
JURISDICTION	Texas Court of Appeals, Thirteenth District
DECIDED	April 2, 2026
DOCKET	13-26-00192-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed a final judgment, then jointly moved to withdraw the appeal without prejudice after the trial court granted appellant's motion for new trial.
PRECEDENTIAL VALUE	Published
PARTIES	Wynn's Extended Care Inc. v. Horacio Castillo

TOPICS

appellate procedure · motion for new trial · civil procedure

PRACTICE AREAS

Appellate procedure · Civil procedure

QUESTIONS PRESENTED

1. Whether the court should grant the parties' agreed motion to withdraw the appeal without prejudice after the trial court granted a new trial.
2. How appellate costs should be allocated upon dismissal at the parties' request.

HOLDINGS

1. The court granted the parties' agreed motion and dismissed the appeal without prejudice to refiling because the trial court had granted a new trial and the parties wished to pursue any appeal after retrial.
2. Appellate 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 appeal arose from a final judgment in favor of Horacio Castillo. During the pendency of the appeal, the trial court granted Wynn's motion for new trial. The parties then jointly requested dismissal without prejudice so that any potential appeal could be pursued after retrial.

PROCEDURAL HISTORY

Wynn's Extended Care Inc. filed a notice of appeal from a final judgment in favor of Horacio Castillo. While the appeal was pending, the trial court granted Wynn's motion for new trial, and both parties agreed to withdraw the appeal and pursue any future appeal after retrial. The court granted the motion, dismissed the appeal without prejudice, and taxed appellate costs against appellant.

DISPOSITION

dismissed

OPINION

Wynn's Extended Care Inc. v. Horacio Castillo
PER CURIAM.
NUMBER 13-26-00192-CV
COURT OF APPEALS
THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI – EDINBURG

WYNN'S EXTENDED CARE INC., Appellant, v. HORACIO CASTILLO, Appellee.

ON APPEAL FROM THE COUNTY COURT AT LAW
OF KLEBERG COUNTY, TEXAS

MEMORANDUM OPINION

Before Chief Justice Tijerina and Justices West and Cron Memorandum Opinion by Justice Cron Appellant Wynn's Extended Care Inc. filed a notice of appeal from a final judgment in favor of appellee Horacio Castillo. The parties have since filed an "Agreed Motion to Withdraw Appeal Without Prejudice" signed by counsel for both parties. The parties informed the Court that the trial court has granted appellant's motion for new trial, and the parties would prefer to pursue any potential appeal after retrial. The Court, having reviewed the parties' agreement, is of the opinion that the motion should be granted. See TEX. R. APP. P. 42.1(a)(2). Therefore, the motion to dismiss is granted, and the appeal is hereby dismissed without prejudice to refiling. See id. R. 42.1(a)(2)(A). Additionally, appellate costs are taxed against appellant. See id. R. 42.1(d) ("Absent agreement of the parties, the court will tax costs against the appellant."). Having dismissed the appeal at the parties' request, no motion for rehearing will be entertained.

JENNY CRON

Justice Delivered and filed on the 2nd day of April, 2026. 2