

SUPREME COURT OF TEXAS

In re Cook

356 S.W.3d 493 (Tex. 2011) · Decided December 16, 2011

SUMMARY

The Texas Supreme Court conditionally granted mandamus relief in a divorce action involving a trial court’s grant of a new trial after a jury verdict. The Court held that the successor trial judge abused his discretion by merely reaffirming the prior new-trial order without clearly identifying reasonably specific reasons for refusing to enter judgment on the jury verdict.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	December 16, 2011
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Jeffrey Cook petitioned the Supreme Court of Texas for a writ of mandamus after the trial court granted Barbara Cook's motion for a new trial and, following the original judge's resignation, a successor judge merely reaffirmed the order without stating reasons.
STANDARD OF REVIEW	Mandamus is appropriate when a trial court abuses its discretion and the relator lacks an adequate remedy by appeal. The Supreme Court reviewed whether the successor judge's order complied with the requirement to clearly identify reasonably specific reasons for setting aside the jury verdict and granting a new trial.
PRECEDENTIAL VALUE	Published and precedential Texas Supreme Court opinion
PARTIES	Jeffrey Cook v. Barbara Cook

TOPICS

- writ of certiorari
- appellate procedure
- civil procedure
- family law
- remedies

PRACTICE AREAS

- civil procedure
- appellate procedure
- family law
- remedies

QUESTIONS PRESENTED

1. Whether the successor trial judge abused his discretion by reaffirming an order granting a new trial without specifying the reasons for setting aside the jury verdict.
2. Whether mandamus relief was available because the successor judge's failure to state sufficiently specific reasons left Jeffrey without an adequate remedy by appeal.

HOLDINGS

1. A successor trial judge who reaffirms a predecessor's order granting a new trial must provide the successor court's own clearly identified and reasonably specific reasons for refusing to enter judgment on the jury verdict. An order stating only that the predecessor's orders should remain unchanged is insufficient.
2. Mandamus relief should be conditionally granted because the successor judge abused his discretion by failing to state reasons for refusing to enter judgment on the jury verdict, and there was no adequate remedy by appeal.

KEY QUOTATIONS

“Reaffirming the former trial court’s order was tantamount to granting the motion for new trial. Consequently, the successor trial court must provide its own statement of the reasons for setting aside a jury verdict.” (at 496)

“We conditionally grant Jeffrey’s petition for writ of mandamus and direct the successor trial court to specify the reasons why it refused to enter” (at 496)

FACTUAL BACKGROUND

Barbara Cook sought to enforce an in-court agreement with Jeffrey Cook as a contract. The case proceeded to trial on whether Jeffrey lacked the mental capacity to enter the agreement, and the jury found in Jeffrey's favor. Barbara moved for a new trial on multiple grounds, and the successor trial judge later reaffirmed the original new-trial order without giving reasons.

PROCEDURAL HISTORY

The jury returned a verdict in Jeffrey Cook's favor in a divorce-related contract-enforcement dispute. The trial court granted Barbara Cook's motion for a new trial without specifying grounds, later amended the order to state that the new trial was granted on all grounds in the motion, and then a successor judge reaffirmed the order without independent reasons. The court of appeals denied Jeffrey's mandamus petition and rehearing request. The Supreme Court of Texas abated the proceeding to permit reconsideration by the successor judge, then lifted the abatement when the successor issued an order that still did not state reasons.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The successor trial court was directed to specify the reasons why it refused to enter judgment on the jury verdict and granted or reaffirmed the new-trial order. The writ would issue only if the trial court failed to comply.

CASES CITED

- In re Columbia Medical Center of Las Colinas, 290 S.W.3d 204 (Tex. 2009)
- In re Baylor Medical Center at Garland, 289 S.W.3d 859 (Tex. 2009) (Baylor II)
- In re Baylor Medical Center at Garland, 280 S.W.3d 227 (Tex. 2008) (Baylor I)
- State v. Olsen, 163 Tex. 449, 360 S.W.2d 402 (Tex. 1962)

OPINION

PER CURIAM.

PER CURIAM. ' The relator asks us to decide whether a trial court abused its discretion when it issued an order granting a motion for new trial “based on all grounds in the motion.” While this case was pending, however, the judge who signed the order resigned, and we remanded the case pursuant to Texas Rule of Appellate Procedure 7.2(b).

The successor trial judge then entered an order stating only that his predecessor’s ruling “should remain unchanged.” We recently held that a successor trial court’s order reaffirming the original trial court’s grant of a motion for new trial was “effectively an order refusing to enter judgment on the jury verdict and affects the rights of the parties no less than did the orders of the original judge,” and we concluded that the relator in that case was “entitled to know those reasons just as much as it would be entitled to know the reasons for the orders entered by the former trial judge.” In re Columbia Med.

Ctr. of Las Colinas, 290 S.W.3d 204, 214 (Tex.2009). Accordingly, we conditionally granted mandamus relief, directing the successor trial court to specify the reasons it refused to enter judgment on the jury verdict and ordered a new trial. Id. at 215.

Because the successor trial court judge in this case did not state sufficient reasons for his ruling, contrary to our holding in In re Columbia, we conditionally grant relief. This a divorce action between Barbara and Jeffrey Cook. Barbara sought to enforce an in-court agreement as a contract.

The case proceeded to trial to determine whether Jeffrey lacked mental capacity to enter the agreement. After the jury returned a verdict in Jeffrey’s favor, Barbara moved for a new trial, alleging: (1) factually insufficient evidence, (2) jury misconduct, (3) improper admission of evidence, (4) jury charge error, (5) improper testimony from witnesses that were not disclosed in discovery, and (6) a new trial was required “in the interest of justice.” The trial court granted Barbara’s motion without stating the reasons for doing so.

Jeffrey sought mandamus relief from the court of appeals, arguing that the trial court abused its discretion in granting the motion for new trial without clearly articulating reasons. While the mandamus petition was pending, the trial court signed an amended order granting a new trial “based on all grounds in the motion.” Shortly thereafter, the trial judge resigned, and a successor judge was appointed. *495The court of appeals denied Jeffrey’s petition.

2010 WL 2331431, at *1. The court of appeals also denied Jeffrey’s motion for rehearing, which sought to abate the case until the successor judge had an opportunity to reconsider the order. See Tex.R.App. P. 7.2(b). Jeffrey then petitioned this Court for a writ of mandamus and asked us to abate the mandamus proceeding and allow the successor judge to reconsider the order granting the motion for a new trial.

We abated the case. See *id.* The trial court issued an order stating that “[t]he Court, having reviewed the record before it, is of the opinion that the orders signed by [the original trial court judge] should remain unchanged.” The order specified no reasons for its ruling.

On January 7, 2011, we lifted the abatement order and reinstated the original proceeding. We recently held that a trial court’s failure to clearly state the reasons for setting aside a jury verdict and for granting a new trial constitutes an abuse of discretion for which there is no adequate remedy by appeal.

In *re Columbia*, 290 S.W.3d at 209-10, 212-13. In that case, the successor trial court judge failed to state specific grounds for reaffirming the grant of a new trial. See *id.* at 206 (noting that successor trial court’s order merely stated that it “reaffirmed” original trial court’s order).

In *In re Baylor Medical Center at Garland*, the relator challenged the grounds the original trial court judge relied upon in granting a new trial, even after two successor trial court judges had considered the order and reaffirmed the original new trial order without giving independent reasons for doing so. 289 S.W.3d 859, 860 (Tex.2009) (*Baylor II*). Relying on our holding in *Baylor I* that “[m]andamus will not issue against a new judge for what a former one did,” *In re Baylor Med.*

Ctr. at Garland, 280 S.W.3d 227, 228 (Tex.2008) (*Baylor I*), we refused to consider the reasons the first trial court judge gave in his new trial order. *Baylor II*, 289 S.W.3d at 860. In accordance with *Columbia*, we conditionally granted mandamus relief directing the trial court to explain why it affirmed the order granting a new trial. *Id.* at 861. Jeffrey asserts that the original trial court’s order disregarding the jury verdict and granting a new trial “based on all grounds in the motion” was not sufficiently specific under *Columbia*.

As in *Columbia* and *Baylor II*, however, the former trial court’s order is no longer at issue here, as the successor trial judge has since issued a subsequent order. Accordingly, we do not decide whether the former trial court’s grant of a new trial “based on all grounds in the motion”

constitutes an abuse of discretion. See *Baylor II*, 289 S.W.3d at 860. Instead, we focus on whether the most recent order by the successor judge satisfies *Columbia*.

See *State v. Olsen*, 163 Tex. 449, 360 S.W.2d 402, 403 (1962) (“A writ of mandamus will not lie against a successor judge in the absence of a refusal by him to grant the relief Relator seeks.”). We conclude that it does not. Reaffirming the former trial court’s order was tantamount to granting the motion for new trial. Consequently, the successor trial court must provide its own statement of the reasons for setting aside a jury verdict.

See *In re Columbia*, 290 S.W.3d at 212-13. As in *Columbia*, the successor judge’s failure to do so was an abuse of discretion for which there is no adequate remedy by appeal. See *id.* at 209-10, 212-13. Without hearing oral argument, TEX. R. APP. P. 52.8(c), we conditionally grant Jeffrey’s petition for writ of mandamus and direct the successor trial court to specify the reasons why it refused to enter *496 judgment on the jury verdict.

See *In re Columbia*, 290 S.W.3d at 215 (requiring reasons to be “clearly identified and reasonably specific”). We are confident that the trial court will comply, and our writ will issue only if it does not. Justice LEHRMANN did not participate in the decision.