

TEXAS COURT OF APPEALS, THIRD DISTRICT AT AUSTIN

**Arlene Bunch and Rick Toledo as Conservator for Darlene Toledo
Magner v. Darrell W. Goen and Alice C. Goen, Trustees of the Goen
Family Trust Dated April 13, 2006; Robert C. Dean and Teresa K.
Dean, Trustees of the Dean Family Trust Dated September 6, 2006;
Chester A. Hipple and Cynthia A. Hipple, as TTEE U/D/T 1/23/07;
and Delbert M. Goen, Trustee of the Delbert M. Goen Living Trust
Dated August 16, 2006; Each as to Undivided 25% Interest**

Bunch v. Goen · No. 03-25-00614-CV · Decided March 13, 2026

SUMMARY

The Texas Court of Appeals for the Third District abated the appeal for thirty days after determining that the trial court’s judgment was not final and directing that a supplemental clerk’s record be filed. The court also ordered Rick Toledo, or any other party seeking to continue the appeal, to explain the court’s jurisdiction and why filings made by Toledo on behalf of Darlene Toledo Magner should not be stricken because he did not appear to be an attorney or a party.

CASE DETAILS

COURT	Texas Court of Appeals, Third District at Austin
WRITING FOR THE COURT	Per curiam; Chief Justice Byrne; Justice Crump; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District at Austin
DECIDED	March 13, 2026
DOCKET	03-25-00614-CV
DISPOSITION	abated
PROCEDURAL POSTURE	The court acted on its own motion after previously dismissing the appeal for lack of jurisdiction because the trial-court judgment was not final. It abated the appeal for thirty days to permit filing of a supplemental clerk's record containing a final judgment and ordered a response concerning the apparent unauthorized representation of an appellant by a nonattorney.
PRECEDENTIAL VALUE	Published

PARTIES

Arlene Bunch and Rick Toledo as Conservator for Darlene Toledo
Magner v. Darrell W. Goen and Alice C. Goen, Trustees of the Goen
Family Trust Dated April 13, 2006, Robert C. Dean and Teresa K.
Dean, Trustees of the Dean Family Trust Dated September 6, 2006,
Chester A. Hipple and Cynthia A. Hipple, as TTEE U/D/T 1/23/07,
Delbert M. Goen, Trustee of the Delbert M. Goen Living Trust Dated
August 16, 2006

TOPICS

appellate jurisdiction

final judgment rule

appellate procedure

trusts

guardianship procedure

PRACTICE AREAS

appellate procedure

civil procedure

trusts

guardianships

QUESTIONS PRESENTED

1. Whether the appeal should be abated to allow the trial court to render or supply a final judgment when the existing judgment is not final and appealable.
2. Whether a nonattorney who is not a party may file appellate documents on behalf of another party.
3. Whether the court should require a response explaining the basis for appellate jurisdiction and why the appellants' filings should not be struck.

HOLDINGS

1. When the record shows that the trial-court judgment is not final and appealable, the court of appeals may abate the appeal to permit the trial court to render a final judgment rather than immediately dismissing the appeal.
2. A nonattorney may not represent another party in an appeal, and a notice of appeal filed by a nonattorney on behalf of that party is ineffective to perfect the party's appeal.

KEY QUOTATIONS

“Rule 7 of the Texas Rules of Civil Procedure allows a person to represent himself or herself pro se only to litigate rights on his or her own behalf, not to litigate rights in a representative capacity.” (Order and memorandum opinion)

“Therefore, a notice of appeal filed by a nonattorney is ineffective to perfect an appeal by the party the nonattorney purports to represent.” (Order and memorandum opinion)

FACTUAL BACKGROUND

The trial court's judgment was not final, creating a jurisdictional defect in the appeal. Rick Toledo filed the notice of appeal, appellants' brief, and motion for rehearing on behalf of Darlene Toledo Magner, although the appellate record did not indicate that Toledo was an attorney or a party to the case.

PROCEDURAL HISTORY

The appeal arose from the 433rd District Court of Comal County. On December 16, 2025, the court of appeals dismissed the case after determining that the trial-court judgment was not final. Following appellants' motion for rehearing and appellees' reply, the court abated the appeal for thirty days and required a supplemental clerk's record containing a final judgment. The court also ordered Rick Toledo, or any other party seeking to continue the appeal, to explain the court's jurisdiction and why the appellants' brief and motion for rehearing should not be struck because Toledo appeared not to be an attorney or a party.

DISPOSITION

abated

REMAND INSTRUCTIONS

The court did not remand the case to the trial court. It abated the appeal for thirty days and ordered that a supplemental clerk's record containing a final judgment be filed. It also ordered Rick Toledo, or any other party wishing to continue the appeal, to file within thirty days a response explaining the basis for jurisdiction and why the appellants' brief and motion for rehearing should not be struck.

CASES CITED

- McNally v. Guevara, 52 S.W.3d 195, 196 (Tex. 2002) (per curiam)
- Kaminetzky v. Newman, No. 01-10-01113-CV, 2011 WL 6938536, at *2 (Tex. App.—Houston [1st Dist.] Dec. 29, 2011, no pet.) (mem. op.)
- Kunstoplast of Am., Inc. v. Formosa Plastics Corp., U.S.A., 937 S.W.2d 455, 456 (Tex. 1996)
- Jimison v. Mann, 957 S.W.2d 860, 861 (Tex. App.—Amarillo 1997, order) (per curiam)
- In re Guetersloh, 326 S.W.3d 737, 740 (Tex. App.—Amarillo 2010, orig. proceeding)
- Rodriguez v. Marcus, 484 S.W.3d 656, 658 (Tex. App.—El Paso 2016, no pet.)