

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

David Ray Barnes v. Jennifer Barnes

No. 05-16-00241-CV (Tex. App.—Dallas Oct. 11, 2016) · No. No. 05-16-00241-CV · Decided October 11, 2016

SUMMARY

The Court of Appeals for the Fifth District of Texas granted the appellant’s motion to abate and remanded the matter for the trial court to enter findings of fact and conclusions of law under Texas Rules of Civil Procedure 296 and 297. The appeal was abated pending receipt of the supplemental clerk’s record containing those findings and conclusions.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Craig Stoddart
JURISDICTION	Texas
DECIDED	October 11, 2016
DOCKET	No. 05-16-00241-CV
DISPOSITION	remanded
PROCEDURAL POSTURE	On appeal from the 301st Judicial District Court of Dallas County, Texas, the appellant moved to abate the appeal and remand for findings of fact and conclusions of law.
PRECEDENTIAL VALUE	published
PARTIES	David Ray Barnes v. Jennifer Barnes

TOPICS

- family law procedure
- appellate procedure
- civil procedure

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether the appeal should be abated and remanded so the trial court could enter findings of fact and conclusions of law under Texas Rules of Civil Procedure 296 and 297.

HOLDINGS

1. The court granted the appellant's motion to abate and remanded the matter to the trial court for entry of findings of fact and conclusions of law.

KEY QUOTATIONS

“We GRANT appellant’s motion to abate and remand for entry of findings of fact and conclusions of law.”

“We ABATE the appeal to allow the trial court to comply with this order.”

FACTUAL BACKGROUND

The provided order contains no substantive facts concerning the underlying dispute. It states only that the appeal required findings of fact and conclusions of law from the trial court.

PROCEDURAL HISTORY

The appeal arose from the 301st Judicial District Court of Dallas County, Texas, trial court cause number DF-11-11126. The Court of Appeals granted the appellant's motion to abate and remanded for the trial court to enter findings of fact and conclusions of law under Texas Rules of Civil Procedure 296 and 297.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The presiding judge of the 301st Judicial District Court of Dallas County was ordered to make findings of fact and conclusions of law under Texas Rule of Civil Procedure 297 within 20 days of the order. The findings were to be filed in a supplemental clerk's record within 25 days. The appeal was abated and set for reinstatement 30 days after the order or upon receipt of the findings, whichever occurred first.

OPINION

PER CURIAM.

Order entered October 11, 2016 In The Court of Appeals Fifth District of Texas at Dallas No. 05-16-00241-CV DAVID RAY BARNES, Appellant V. JENNIFER BARNES, Appellee On Appeal from the 301st Judicial District Court Dallas County, Texas Trial Court Cause No. DF-11-11126 ORDER We GRANT appellant’s motion to abate and remand for entry of findings of fact and conclusions of law.

See TEX. R. CIV. P. 296, 297. We ORDER the Honorable Mary Brown, Presiding Judge of the 301st Judicial District Court of Dallas County, Texas to make findings of fact and conclusions of law in accordance with Texas Rule of Civil Procedure 297 within twenty (20) days of the date of this order.

The findings of fact and conclusions of law shall be filed in a supplemental clerk's record with this Court within twenty-five (25) days of the date of this order. We DIRECT the Clerk of this Court to send a copy of this order by electronic transmission to Judge Brown, Dallas County District Clerk Felicia Pitre, and all counsel of record.

We ABATE the appeal to allow the trial court to comply with this order. The appeal will be reinstated thirty (30) days from the date of this order or when the Court receives the findings of fact and conclusions of law, whichever occurs sooner. /s/ CRAIG STODDART JUSTICE