

Opinion issued December 11, 2008



**In The  
Court of Appeals  
For The  
First District of Texas**

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**NO. 01-07-00465-CV**

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**MARIA ELENA GUERRERO, Appellant**

**V.**

**MARK A. BOYD AND CONTROL SOLUTIONS, INC., Appellee**

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**On Appeal from the 269th District Court  
Harris County, Texas  
Trial Court Cause No. 2006-14646**

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**MEMORANDUM OPINION**

Appellant Maria Elena Guerrero sued appellees Mark A. Boyd and Control Solutions, Inc. for alleged personal injuries she suffered due to a fire and explosion

at property belonging to Boyd that was occupied by Control Solutions. Boyd and Control Solutions joined four third-party defendants: (1) Benko Products, Inc.; (2) Choctaw Sales, Inc.; (3) Gharda Chemicals, Ltd. a/k/a Gharda Chemicals Limited; and (4) Gharda USA, Inc.

Boyd and Control Solutions filed a no-evidence motion for summary judgment, which the district court granted on February 2, 2007. Boyd and Control Solutions filed a motion to nonsuit the four third-party defendants, which the district court granted on February 2, 2007, resulting in a final judgment that Guerrero take nothing from Boyd and Control Solutions. Guerrero later asked her lawyer to withdraw as counsel, and she prosecuted this appeal pro se.

In her appellant's brief, Guerrero raises no specific issue or point of error, but instead complains as part of a general narrative that her lawyer was ineffective in representing her. Guerrero goes so far as to suggest that her lawyer was paid by the defendants to not prosecute her case and that the district judge "wanted" her to lose. She also claims there were fact issues in the case such that the no-evidence summary judgment was improper and that the summary judgment violated her state and federal constitutional rights to due process and due course of law.

The appellant's brief cites to two cases, both of which are lawyer disciplinary proceedings. The brief contains neither any substantive discussion of what

summary-judgment evidence existed that raised sufficient fact issues to defeat the defendants' no-evidence motion for summary judgment, nor any references to the clerk's record. The appellant's brief concludes by asking this Court to render a final judgment in Guerrero's favor.

In substance, Guerrero is asking this Court to reverse the district court's judgment and remand the case for a new trial based on ineffective assistance of counsel. The Sixth Amendment right to effective assistance of counsel, however, does not extend to civil cases such as this personal-injury lawsuit. *See Cherqui v. Westheimer St. Festival Corp.*, 116 S.W.3d 337, 343–44 (Tex. App.—Houston [14th Dist.] 2003, no pet.). Furthermore, Guerrero's trial lawyer is not a party to this appeal.<sup>1</sup> We treat Guerrero's comments that the no-evidence summary judgment was

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<sup>1</sup>In her appellant's brief, Guerrero lists as appellees Boyd and Control Solutions, as well as the four third-party defendants. Texas Rule of Appellate Procedure 3.1(c) defines an appellee as "a party adverse to an appellant." Unlike an appellant, who must file a notice of appeal and identify himself or herself, an appellee need not be definitively identified until the appellant's brief is filed. *See Gray v. Allen*, 41 S.W.3d 330, 331 n.2 (Tex. App.—Fort Worth 2001, no pet.). An appellee, however, must be a party to the trial court's final judgment and must be someone against whom the appellant raises issues or points of error in the appellant's brief. *See id.* Because the third party defendants were nonsuited, they are not parties to the trial court's final judgment and cannot be appellees. Boyd and Control Solutions are appellees, notwithstanding the fact that Guerrero does not specifically discuss them in her appellant's brief (or bring a conventional issue or point of error), because the substantive relief that Guerrero seeks—a new trial—is adverse to their interest in preserving the judgment that she take nothing.

improper both on factual and constitutional ground as her “evidence” of why her lawyer was ineffective, but we also hold that even if we treat these complaints as separate issues, she has not adequately briefed them. *See Harris County Mun. Util. Dist. No. 48 v. Mitchell*, 915 S.W.2d 859, 866 & n.15 (Tex. App.—Houston [1st Dist.] 1995, writ denied) (discussing failure to adequately brief).

We overrule Guerrero’s contention that she received ineffective assistance of counsel and affirm the district court’s judgment.

Sam Nuchia  
Justice

Panel consists of Chief Justice Radack and Justices Nuchia and Higley.