

Motion Granted; Motion Denied; Appeal Dismissed and Memorandum Opinion filed September 29, 2016.



**In The
Fourteenth Court of Appeals**

NO. 14-16-00668-CV

IN THE INTEREST OF J.J.R.P., A CHILD

**On Appeal from the 309th District Court
Harris County, Texas
Trial Court Cause No. 2010-52276**

M E M O R A N D U M O P I N I O N

This is an appeal from a judgment signed April 20, 2016. On September 6, 2016, appellant, Briony Phillipa Pessell, filed a motion to “immediately dismiss proceedings and send the case back to the trial court for the entry of judgment and mandate.”

Texas Rule of Appellate Procedure 42.1(a) dictates the options available to a court of appeals concerning voluntary dismissal of a civil appeal. That rule provides in relevant part:

- (a) On Motion or By Agreement. The appellate court may dispose of an appeal as follows:
 - (1) On Motion of Appellant. In accordance with a motion of appellant, the court may dismiss the appeal or affirm the appealed judgment or order unless disposition would prevent a party from seeking relief to which it otherwise may be entitled.
 - (2) By agreement. In accordance with an agreement signed by the parties or their attorneys and filed with the clerk, the court may:
 - (A) render judgment effectuating the parties' agreements;
 - (B) set aside the trial court's judgment without regard to the merits and remand the case to the trial court for rendition of judgment in accordance with the agreements; or
 - (C) abate the appeal and permit proceedings in the trial court to effectuate the agreement.

Tex. R. App. P. 42.1(a).

We are not permitted to both dismiss the appeal and remand the case, which appellant requests. We are limited to the actions authorized by Rule 42.1(a). Here, because dismissal is sought by appellant's motion, not by agreement of the parties, our only options are to dismiss the appeal or affirm the judgment. Tex. R. App. P. 42.1(a)(1). Therefore, we **GRANT** the motion only to the extent it asks for dismissal of the appeal. The appeal is **DISMISSED** on appellant's motion.

Appellee's motion to dismiss the appeal for lack of jurisdiction is **DENIED AS MOOT**.

PER CURIAM

Panel consists of Justices Jamison, McCally, and Wise.