

NO. 07-09-0161-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL C  
SEPTEMBER 17, 2009

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CHARLES RAY MARTIN, PRINCIPAL, DAVIE C. WESTMORELAND,  
INDIVIDUALLY AND D/B/A WESTMORELAND BAIL BONDS, SURETY, APPELLANTS

V.

THE STATE OF TEXAS, APPELLEE

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FROM COUNTY COURT AT LAW NO. 1 OF RANDALL COUNTY;  
NO. 2008-109-CV; HONORABLE JAMES ANDERSON, JUDGE

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Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

### **MEMORANDUM OPINION**

Appellant, Davie C. Westmoreland, issued a bond to secure the appearance of Charles Ray Martin in a criminal proceeding. When Martin failed to appear, the State sought forfeiture of the bond and obtained a judgment nisi. After no answer was filed, the trial court rendered a default judgment that the State of Texas recover \$3,000.

Westmoreland filed a Notice of Restricted Appeal challenging the judgment. Presenting a sole issue, Westmoreland maintains the trial court erred in rendering a default judgment due to fatally defective service of process.

By letter brief, the State of Texas indicates it does not oppose the relief sought by Westmoreland. Accordingly, as requested by Westmoreland, we reverse the default judgment rendered on February 18, 2009, and remand the cause to the trial court for further proceedings. Pursuant to Rule 43.4 of the Texas Rules of Appellate Procedure, costs are taxed against the State of Texas. Under the facts presented, our mandate will issue forthwith.

Patrick A. Pirtle  
Justice