

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-18-00518-CV
NO. 03-18-00634-CV**

James McCoy, Appellant

v.

**Dale Wainwright, Chairman of the Texas Board of Criminal Justice,
and Kenneth Green, Disciplinary Captain of the Michael Unit, Appellees**

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 200TH JUDICIAL DISTRICT
NO. D-1-GN-17-003083, HONORABLE ORLINDA NARANJO, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

The above-referenced causes each arise from the same trial-court cause, Cause No. D-1-GN-1-003083, a suit that was dismissed with prejudice under Chapter 14 of the Texas Civil Practice and Remedies Code. The trial court signed an order dismissing plaintiff's claims with prejudice on July 20, 2018. McCoy appealed that judgment, and the appeal was docketed in this Court as Cause No. 03-18-00518-CV. McCoy also appealed an order denying his "Plaintiff's Motion to Extend Time to File Motion to Reinstate or Alternatively Motion to Vacate," and the appeal was docketed in this Court as Cause No. 03-18-00634-CV.

On September 26, 2018, we notified McCoy that our initial review of Cause No. 03-18-00634-CV indicated that the Court lacks jurisdiction over that matter because he already has an appeal pending from the final order in the same trial-court case, and in most proceedings, only

one final and appealable judgment may be rendered. In response to our request that McCoy explain how the Court may exercise jurisdiction over Cause No. 03-18-00634-CV, he filed a motion to proceed with that appeal and to dismiss Cause No. 03-18-00518-CV. McCoy explained in his motion that he wished to proceed with his appeal in Cause No. 03-18-00634-CV because “it is the final, Final Order.” We disagree. The trial court’s July 20, 2018 order dismissed McCoy’s claims with prejudice for failure to comply with Chapter 14 of the Texas Civil Practice and Remedies Code. The order states that it “disposes of all claims and all parties and will operate as a **FINAL JUDGMENT.**” Appellate courts are required to take at face value an order that includes a finality phrase clearly and unequivocally stating that it finally disposes of all claims and all parties. *See In re Elizondo*, 544 S.W.3d 824, 827-28 (Tex. 2018). Accordingly, the July 20, 2018 order is the final order in the underlying proceeding.

Because McCoy indicates in his motion that he wishes to proceed with an appeal from the trial-court case, on the Court’s own motion, we consolidate Cause Nos. 03-18-00518-CV and 03-18-00634-CV for all purposes.¹ The records filed in Cause No. 03-18-00634-CV shall be transferred to Cause No. 03-18-00518-CV. The consolidated causes will proceed under the following style: *James McCoy v. Dale Wainwright, Chairman of the Texas Board of Criminal Justice, and Kenneth Green, Disciplinary Captain of the Michael Unit*. Cause No. 03-18-00634-CV is dismissed.²

¹ This consolidation of the appeals and dismissal of Cause No. 03-18-00634-CV does not preclude McCoy from raising any appellate issues related to the trial court’s denial of his “Plaintiff’s Motion to Extend Time to File Motion to Reinstate or Alternatively Motion to Vacate.”

² We dismiss as moot McCoy’s “Motion to Proceed with Appeal 03-18-00634-CV and Motion to Dismiss 03-18-00518-CV.”

Before Chief Justice Rose, Justices Field and Toth

03-18-00518-CV Consolidated

03-18-00634-CV Dismissed

Filed: November 1, 2018