



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

ALAMO DEFENDERS DESCENDANTS	§	
ASSOCIATION and LEE WHITE,		
Individually,	§	
Appellants,	§	No. 08-20-00172-CV
v.	§	Appeal from the
	§	126th Judicial District Court
TEXAS HISTORICAL COMMISSION,	§	Of Travis County, Texas
MARK WOLFE, as Executive Director of		
the Texas Historical Commission, in his	§	(TC# D-1-GN-19-007845)
official capacity only, THE TEXAS		
GENERAL LAND OFFICE, GEORGE P.	§	
BUSH, Commissioner of the General Land		
Office of the State of Texas, in his official	§	
capacity only, ALAMO TRUST, INC., and		
the CITY OF SAN ANTONIO,	§	
Appellees.	§	

MEMORANDUM OPINION¹

Pending before this Court is the parties' amended joint motion to dismiss this appeal in accordance with a final settlement agreement. *See* TEX. R. APP. P. 42.1(a)(2)(A). The parties

¹ This case was transferred to this Court from the Third Court of Appeals, our sister court in Austin (Cause No. 03-20-00370-CV) and we decide it in accordance with the precedent of that court. TEX. R. APP. P. 41.3.

joining the motion are Appellants, Alamo Defenders Descendants Association and Lee White (collectively, the ADDA, and together with the Appellees, the Parties), and Appellee the Alamo Trust, Inc., (Alamo Trust), Appellee the Texas General Land Office, George P. Bush, Commissioner of the General Land Office of the State of Texas, in his official capacity only, (collectively, the GLO), Appellee the City of San Antonio (COSA), and Appellee the Texas Historical Commission, Mark Wolfe, as Executive Director of the Texas Historical Commission (collectively, the THC, and together with Alamo Trust, the GLO, and COSA, the Appellees). The Parties' motion states they have now executed a final settlement agreement, and in accordance with that agreement, they request the Court dismiss this appeal as to all Parties, vacate the trial court's judgment, and render judgment effectuating their agreement. *See* TEX. R. APP. P. 42.1(a)(2)(A) (permitting appeals court to dispose of an appeal by rendering judgment effectuating the parties' agreement); *see also* TEX. R. APP. P. 43.2(e)(permitting the appeals court to vacate the trial court's judgment and dismiss the case). The Parties specifically request that this Court dismiss the case and render judgment as follows:

- (a) The ADDA's claim seeking declaratory or injunctive relief to compel DNA testing on human remains previously discovered at the Alamo Complex as their exclusive remedy (the DNA Testing Claim) shall be dismissed *without prejudice* to refiling of same; and
- (b) All of the ADDA's remaining claims or causes of action asserted in the underlying lawsuit are dismissed *with prejudice* to refiling of same.

[Emphasis in original]. Counsel for all Parties have signed the motion filed with the Clerk of this Court. *See* TEX. R. APP. P. 42.1(a)(1).

The motion is granted. The trial court's judgment signed on April 22, 2020, as to each Appellee, is vacated, and the case is dismissed pursuant to the terms of the settlement agreement in that: (a) the ADDA's DNA Testing Claim shall be dismissed *without prejudice* to refiling of

same; and (b) all of the ADDA's remaining claims or causes of action asserted in the underlying lawsuit are dismissed with prejudice. *See* TEX. R. APP. P. 42.1(a)(2)(A), 43.2(e). Based on the parties' agreement, costs of the appeal are taxed against the party incurring same. TEX. R. APP. P. 42.1(d). All other motions are denied as moot.

GINA M. PALAFOX, Justice

March 11, 2022

Before Rodriguez, C.J., Palafox, and Alley, JJ.