

NO. 07-03-0083-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL E
MARCH 20, 2003

JIMMY R. LATHAM, APPELLANT

V.

WHITTENBURG, WHITTENBURG & SCHACHTER, P.C.,
CONANT, WHITTENBURG, FRENCH & SCHACHTER,
P.C. AND KARL BAUMGARDNER, APPELLEES

FROM THE 251ST DISTRICT COURT OF POTTER COUNTY;
NO. 88,829-C; HONORABLE PATRICK A. PIRTLE, JUDGE

Before REAVIS and CAMPBELL, JJ., and BOYD, S.J.¹

MEMORANDUM OPINION

¹John T. Boyd, Chief Justice (Ret.), Seventh Court of Appeals, sitting by assignment. Tex. Gov't Code Ann. §75.002(a)(1) (Vernon Supp. 2003).

In this proceeding, appellant Jimmy R. Latham attempted to appeal a take-nothing summary judgment in favor of appellees Whittenburg, Whittenburg & Schachter, P.C., Whittenburg, French & Schachter, P.C. and Karl L. Baumgardner.

We have now been furnished with a suggestion of death of Jimmy Latham and a motion to substitute Mrs. Floy B. Latham, the executrix of the Estate of Jimmy Latham, deceased, as appellant. That motion is hereby granted.

Mrs. Floy B. Latham, as executrix of the Estate of Jimmy Latham, deceased, has now filed a motion in which she states the estate is the only appellant in the case and that she no longer wishes to prosecute the appeal. The motion is in proper form and is filed before this court has rendered any opinion in the case.

Accordingly, the motion is granted and the appeal is dismissed. Tex. R. App. P. 42.1(a). Having dismissed the appeal at appellant's request, no motion for rehearing will be entertained and the mandate will issue forthwith.

John T. Boyd
Senior Justice