

NO. 07-07-0495-CV

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL B

JUNE 23, 2008

WHITTENBURG, WHITTENBURG, SCHACHTER,
& HARRIS, P.C., A/K/A WHITTENBURG, WHITTENBURG,
GARNER & STEIN, P.C., APPELLANT

v.

HAROLD W. WARREN, APPELLEE

FROM THE COUNTY COURT AT LAW NO. 2 OF POTTER COUNTY;
NO. 94,070-2; HONORABLE PAMELA C. SIRMON, JUDGE

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

ON AGREED MOTION TO DISMISS

Pending before the Court is a joint motion, signed by the attorney for each party in accordance with Rule 42.1(a)(2),¹ by which the parties ask that we set aside all previous orders and judgments in the cause, including the final judgment of September 17, 2007, dismiss the cause and the appeal, and order the payment of cash deposited with the trial court clerk in lieu of a supersedeas bond.

¹ Tex. R. App. P. 42.1(a)(2).

We are limited by rule in the dispositions we may make of a civil appeal by agreement of the parties. Rule 42.1(a)(2) permits us, in accordance with an agreement of the parties, to: (A) render judgment effectuating the parties' agreement; (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 agreement; or (C) abate the appeal and permit proceedings in the trial court to effectuate the agreement. Tex. R. App. P. 42.1(a)(2). We think the disposition requested in this pending motion most nearly fits that described in Rule 42.1(a)(2)(B), and will grant relief accordingly.

No decision of this Court having been delivered to date in the appeal, we set aside the trial court's September 17, 2007 judgment without regard to its merits, and remand the case to the trial court for rendition of judgment in accordance with the agreement of the parties, which may include the parties' agreement with regard to disposition of the funds on deposit.

It is so ordered.

Per Curiam