

NO. 07-10-0466-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL D  
MAY 27, 2011

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ROBERT SMITH,

Appellant

v.

CITY OF LUBBOCK and ST. PAUL FIRE  
and MARINE INSURANCE COMPANY,

Appellees

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FROM THE 237TH DISTRICT COURT OF LUBBOCK COUNTY;  
NO. 2008-542,012-A; HON. WILLIAM C. SOWDER, PRESIDING

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***On Motion to Dismiss***

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

Pending before the court is the motion of St. Paul Fire and Marine to dismiss this appeal for want of jurisdiction. We held that motion in abeyance pending the entry of a final, appealable order. Such order was signed by the trial court on May 11, 2011, and received by us on the same date. Consequently, we now consider the pending motion.

St. Paul sought dismissal because Smith allegedly filed an untimely notice of appeal. As explained in our April 15, 2011 order of abatement and remand, no final, appealable order had yet to be signed despite Smith having noticed his appeal. That

defect was cured on May 11, 2011, when the trial court signed its “Amended Final Judgment.” The latter, unlike the trial court’s prior orders, expressed the specific settlement of rights between the parties and disclosed the specific and final result officially condoned by, and recognized under, the law. Given this, the cause actually became appealable on May 11, 2011. More importantly, Texas Rule of Appellate Procedure 27.1(a) mandates that we deem prematurely filed notices of appeal as filed on the day of but after the event that begins the period for perfecting an appeal (that is, May 11, 2011, here). Consequently, Smith’s notice was timely.

The motion to dismiss is denied.

Per Curiam