

NO. 07-12-0021-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
MAY 30, 2012

In the Interest of A.D.G., a Child

FROM THE COUNTY COURT AT LAW OF MOORE COUNTY;
NO. CL96-10; HON. DELWIN MCGEE, PRESIDING

Memorandum Opinion

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

Pending before the court is an “*Agreed Motion to Remand Rosalinda G. [A.]’s Case for New Trial* in accordance with Rule 42.1(a)(2) and 42.1(b) of the rules of appellate procedure.” The parties represent therein that they jointly request the matter to be remanded back to the trial court for a new trial. They so request because the Texas Department of Family and Protective Services failed to “properly serve Appellant with the ‘Third Amended Petition for Protection of A Child, For Conservatorship, and for Termination in Suit Affecting the Parent-Child Relationship,’” and afford her proper notice of the termination hearing. Per the motion, all parties agree to remand for a new trial.

According to Rules 42.1(a) and (b), we can “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 agreements” or “abate the appeal and permit proceedings in the trial court to effectuate the agreement” of the parties. TEX. R. APP. P. 42.1(a)(2)(B) & (C). Given the basis of the motion and the acquiescence to it by appellant, appellee, and attorney ad litem, and given that the clerk’s record supports appellee’s concession of error in the service and notice, we grant the motion.

The trial court’s judgment is reversed solely to the extent that it terminates and otherwise affects the parental relationship between Rosalinda G. A. and A.D.G., and we remand the matter back to the trial court for a new trial.

Per Curiam