In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-17-00087-CV

ROYCE HARRIS, APPELLANT

V.

BIGHAM AUTOMOTIVE, APPELLEE

On Appeal from the County Court at Law No 3
Lubbock County, Texas
Trial Court No. 2016-572,292, Honorable Judy Parker, Presiding

October 5, 2017

ORDER OF DISMISSAL

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

Royce Harris (Harris) appeals an order granting summary judgment in favor of Bigham Automotive (Bigham). Questioning whether this court had jurisdiction over the appeal, we directed Harris to address the matter by October 9, 2017. Harris filed a response wherein he argued that the order granting the summary judgment was final and appealable. We disagree.

In *Chandler v. Reder*, 635 S.W.2d 895 (Tex. App.—Amarillo 1982, no writ), and *Disco Machine of Liberal Co. v. Payton*, 900 S.W.2d 71 (Tex. App.—Amarillo 1995, writ

denied), we had occasion to consider summary judgments which lacked the language necessary to make the order final and appealable. In *Disco,* we noted that declarations by the trial court that the summary judgment was granted were "nothing more than an indication of the trial court's decision *vis-a-vis* the motion[] for summary judgment." *Disco Machine of Liberal Co. v. Payton*, 900 S.W.2d at 74. They do "not express a specific settlement of rights between the parties" or "disclose the specific and final result officially condoned by and recognized under the law." *Id.* Thus, such orders were not final because they did not adjudicate the rights involved or evince a final result recognized by the law.

A judgment is rendered when the decision is officially announced orally in open court, by written memorandum filed with the clerk, or otherwise announced publicly. *Garza v. Tex. Alcoholic Bev. Comm'n*, 89 S.W.3d 1, 6 (Tex. 2002); *Genesis Prod. Co., L.P. v. Smith Big Oil Corp.*, 454 S.W.3d 655, 659 (Tex. App.—Houston [14th Dist.] 2014, no pet.); *Cadles of Grassy Meadow, II, LLC v. Herbert*, No. 07-09-00190-CV, 2010 Tex. App. LEXIS 3147, at *10 (Tex. App.—Amarillo Apr 27, 2010, no pet.) (mem. op.). Furthermore, to constitute an official judgment, the pronouncement must indicate an intent to render a full, final, and complete judgment at that point in time. *Cadles of Grassy Meadow, II, LLC*, 2010 Tex. App. LEXIS 3147, at *10. That is, the verbiage used, "whether spoken or written, must evince a present, as opposed to future, act that effectively decides the issues before the court." *Id.* at *11. And, no less is required of a rendition purporting to appear in a letter or email. *Genesis Prod. Co., L.P.,* 454 S.W.3d at 659-60 (holding that because of "the trial court's failure to file the email or otherwise announce its ruling publicly, as well as the differences between the email and the

court's subsequent written ruling, we conclude that the email was not a rendition of judgment").

In the case at bar, Bigham filed for summary judgment on Harris' causes of action. The trial court granted same by the following order:

> On this day came on to be considered Defendant's Motion for No-evidence Summary Judgment. After considering the motion, response, and summary judgment evidence, the Court is of the opinion that the motion should be granted.
>
> It is therefore ordered that Defendant's Motion for No-evidence Summary Judgment is granted.

As can be seen, the order is a "judicial pronouncement simply specifying that a motion for summary judgment is granted" and "falls short of being the rendition of a judgment."

Furthermore, even if we were to assume *arguendo* that the order simply granting the motion for summary judgment was intended to be a final order, another obstacle to proceeding exists. Bigham alleged counterclaims for breach of contract, quantum meruit, and attorney's fees in its answer. The disposition of those claims was not encompassed within the motion for summary judgment, though. The continued presence of them, therefore, pretermits the order from being final and appealable. *See In re Vaishangi, Inc.*, 442 S.W.3d 256, 259 (Tex. 2014) (stating that a final, appealable order is one that disposes of all parties and claims).

Without a final, appealable rendition of a judgment that disposes of all claims and parties, we have no jurisdiction to proceed. This circumstance requires us to dismiss the appeal for want of jurisdiction. It is so ordered.

Brian Quinn
Chief Justice.