



IN THE  
TENTH COURT OF APPEALS

No. 10-08-00240-CV

IN RE XTO ENERGY, INC.

Original Proceeding

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MEMORANDUM OPINION

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XTO Energy, Inc. filed an original mandamus proceeding against H. D. Black, then the judge of the 77th District Court. However, because Judge Black subsequently retired and is no longer the sitting judge of the district court, we set aside the submission and abated this proceeding to allow the current sitting judge of the 77th District Court to consider anew the issues decided by Judge Black. TEX. R. APP. P. 7.2 (b); *In re Baylor Med. Ctr. at Garland*, 2008 Tex. LEXIS 762, 51 Tex. Sup. J. 1334 (Tex. 2008).

XTO Energy, Inc. has now filed a motion to dismiss this proceeding because the order decided by Judge Black has been vacated. Accordingly, this original proceeding is reinstated and dismissed. *See* TEX. R. APP. P. 42.1(a)(1).

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Reyna, and  
Justice Davis  
Proceeding reinstated  
Petition dismissed  
Opinion delivered and filed May 27, 2009  
[CV06]