

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00381-CV

Bramlette Holland Browder, Appellant

v.

Rachel Moree and Clarence Dean Hinds, Jr., Appellees

**FROM THE 261ST DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-FM-17-002349, THE HONORABLE KARIN CRUMP, JUDGE PRESIDING**

CONCURRING OPINION

Although I concur in the Court’s judgment, I write separately to expressly disapprove of a trial judge’s raising objections to the admission of evidence *sua sponte* and then sustaining her own objections. As the Court observes, a trial judge has broad discretion in conducting trials, and it generally is within a trial judge’s discretion to question witnesses during trial. *See Dow Chem. Co. v. Francis*, 46 S.W.3d 237, 240–41 (Tex. 2001) (discussing trial court’s discretion in conducting trials); *Sklar v. Sklar*, 598 S.W.3d 810, 824–25 (Tex. App.—Houston [14th Dist.] 2020, no pet.) (observing that trial court has broad discretion over conducting trials and collecting cases addressing reasons that trial judge may question witnesses). But a trial judge’s discretion in conducting a trial does not extend to taking the further step of *sua sponte* objecting to and then sustaining an objection to disallow the admission of evidence. To the extent that the Court’s opinion could be construed as condoning this type of conduct by a trial judge, I would disagree with any such conclusion. Nevertheless, with this

comment, I concur in the judgment because in the context of this case, I agree with the Court that the record does not reflect that the trial judge's challenged conduct rose to the level of showing bias or prejudice. *See Dow Chem. Co.*, 46 S.W.3d at 240–41 (discussing judicial bias and partiality).

Melissa Goodwin, Justice

Before Justices Goodwin, Baker, and Kelly

Filed: June 2, 2021