

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-21-00608-CV

Bradley Smith, Appellant

v.

Lorena Smith, Appellee

**FROM THE 459TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-FM-20-007149, THE HONORABLE J. ANDREW HATHCOCK, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Bradley Smith has filed a notice of appeal of the trial court's oral rendition of a divorce dissolving his marriage to Lorena Smith. However, Bradley's notice of appeal is premature because the trial court has not yet signed a divorce decree, *see* Tex. R. App. P. 26.1, 27.1(a), and this Court requested that Bradley provide authority as to how this Court may exercise jurisdiction over his appeal in the absence of a signed final judgment. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001) (providing general rule that appeal may be taken only from final judgment); *see* Tex. R. App. P. 26.1 (providing timetable for perfection of appeal based on date judgment is signed). Bradley has filed a response requesting that this Court abate this appeal until the trial court signs the divorce decree and rules on his pending motion for new trial, either expressly or by operation of law.

This Court grants Bradley's motion to abate this appeal. The appeal is abated until further order of this Court. The trial court shall file a supplemental clerk's record with this Court within thirty days of its losing plenary power of this cause. The supplemental record should include the signed final divorce decree and the trial court's ruling, if any, on Bradley's motion for new trial. The parties shall file with this Court a status update of the trial court's proceedings within sixty days of this order.

It is so ordered on April 27, 2022.

Before Justices Goodwin, Baker, and Triana

Abated and Remanded

Filed: April 27, 2022