

NO. 12-19-00134-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***THOMAS R. BENSON D/B/A LOW
PRICE BAIL BONDS,
APPELLANT***

§ ***APPEAL FROM THE 2ND***

§ ***JUDICIAL DISTRICT COURT***

V.

***THE STATE OF TEXAS,
APPELLEE***

§ ***CHEROKEE COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Appellant, Thomas R. Benson d/b/a Low Price Bail Bonds, appeals from a judgment in favor of the State of Texas, Appellee. On August 19, 2019, Appellant and the State filed a joint motion for disposition of appeal. The motion states that the parties reached an agreement that resolves their dispute and they agree to the following modification, paragraph two on page two of the trial court's October 10, 2018, judgment:

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Judgment Nisi entered on April 13, 2018, regarding the forfeited bond in the amount of \$2,500.00, shall and is hereby set aside, and that Plaintiff Cherokee County, State of Texas, is entitled to recover from RICHARD MARKLE PHELPS, as Principal, and THOMAS R. BENSON d/b/a LOW PRICE BAIL BONDS as Surety, jointly and severally, the sum of \$0.00, together with \$0.00 costs of court incurred herein.

The parties agree that the judgment should be affirmed as modified and that all costs will be taxed against Appellant. They ask this Court to render judgment effectuating the parties' agreement.

Texas Rule of Appellate Procedure 42.1 sets forth the actions that this Court may take in accordance with an agreement signed by the parties or their attorneys and filed with the clerk. TEX. R. APP. P. 42.1(a)(2). We may: (A) render judgment effectuating the parties' agreement; (B)

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 agreement; or (C) abate the appeal and permit proceedings in the trial court to effectuate the agreement. TEX. R. APP. P. 42.1(a)(2).

Accordingly, we **grant** the parties' joint motion for disposition of appeal. See TEX. R. APP. P. 42.1(a)(2)(A). We **modify** the trial court's October 10, 2018, judgment, paragraph two, page two, to state "IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Judgment Nisi entered on April 13, 2018, regarding the forfeited bond in the amount of \$2,500.00, shall and is hereby set aside, and that Plaintiff Cherokee County, State of Texas, is entitled to recover from RICHARD MARKLE PHELPS, as Principal, and THOMAS R. BENSON d/b/a LOW PRICE BAIL BONDS as Surety, jointly and severally, the sum of \$0.00, together with \$0.00 costs of court incurred herein." See TEX. R. APP. P. 42.1(a)(2)(A). We **affirm** the trial court's judgment **as modified**. See *id.*

Opinion delivered September 4, 2019.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 4, 2019

NO. 12-19-00134-CR

THOMAS R. BENSON D/B/A LOW PRICE BAIL BONDS,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 2nd District Court

of Cherokee County, Texas (Tr.Ct.No. 2017090613)

THIS CAUSE came on to be heard on the joint motion for disposition of appeal, and the same being inspected, it is hereby ORDERED, ADJUDGED and DECREED by this Court that the motion be **granted**.

It is therefore ORDERED, ADJUDGED and DECREED that paragraph two on page two of the judgment of the court below be **modified** to state "IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Judgment Nisi entered on April 13, 2018, regarding the forfeited bond in the amount of \$2,500.00, shall and is hereby set aside, and that Plaintiff Cherokee County, State of Texas, is entitled to recover from RICHARD MARKLE PHELPS, as Principal, and THOMAS R. BENSON d/b/a LOW PRICE BAIL BONDS as Surety, jointly and severally, the sum of \$0.00, together with \$0.00 costs of court incurred

herein”, **and as modified**, the trial court’s judgment is **affirmed**; all costs of court shall be assessed against Appellant; and that this decision be certified to the trial court below for observance.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.