

IN THE SUPREME COURT OF TEXAS

No. 05-0072

THOMAS O'DONNELL, EXECUTOR OF THE ESTATE OF CORWIN D. DENNEY,
PETITIONER,

v.

PAUL H. SMITH, ET AL., RESPONDENTS

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FOURTH DISTRICT OF TEXAS

PER CURIAM

JUSTICE GREEN did not participate in the decision.

One of the issues in this legal malpractice case is whether an estate's personal representative can sue the decedent's former attorneys for malpractice they are alleged to have committed in advising the decedent in his capacity as executor of his wife's estate. Citing this Court's decision in *Barcelo v. Elliott*, 923 S.W.2d 575 (Tex. 1996), and its own holding in *Belt v. Oppenheimer, Blend, Harrison & Tate, Inc.*, 141 S.W.3d 706, 708 (Tex. App.—San Antonio 2004), the court of appeals affirmed the trial court's judgment favoring the attorneys, because the estate's executor and the estate lacked privity of contract with the decedent's former attorneys. ___ S.W.3d ___. After the court of appeals' opinion issued in this case, we granted the petition for review and reversed the court of appeals' judgment in *Belt*. See *Belt v. Oppenheimer, Blend, Harrison & Tate, Inc.*, ___

S.W.3d ____ (Tex. 2006).

Accordingly, without hearing oral argument, we grant the petition for review without reference to the merits, vacate the court of appeals' judgment, and remand this case to that court for reconsideration in light of our decision in *Belt*. See TEX. R. APP. P. 59.1, 60.2(f).

Opinion Delivered: June 30, 2006