

In the  
Indiana Supreme Court



Joseph A. DAVIS, ) Supreme Court Cause No.  
Appellant, ) 49S04-1208-CT-498  
)  
v. )  
)  
Herbert and Bui SIMON, ) Trial Court Cause No.  
Appellees. ) 49D12-1005-CT-20141

PUBLISHED ORDER

On August 30, 2012, the Court granted a petition seeking transfer of jurisdiction over this appeal after an opinion by the Court of Appeals.

After further review of this case, including oral argument, the participating Justices are split 2-2 in their analysis whether the trial court should have denied the motion to dismiss.

When this Court is evenly divided after transfer has been granted, the decision of the Court of Appeals shall be reinstated. Ind. Appellate Rule 58(C). Accordingly, the Court of Appeals' opinion reported as Davis v. Simon, 963 N.E.2d 46 (Ind. Ct. App. 2012), is reinstated as Court of Appeals precedent.

The Clerk is directed to certify the Court of Appeals' opinion as final, to post a copy of this order on the Court's website, and to send a copy of this order to all counsel of record, to LexisNexis, and to Thomson/Reuters for publication on-line and in the bound volumes of this Court's decisions.

Done at Indianapolis, Indiana, on May 21, 2013.

FOR THE COURT

/s/ Brent E. Dickson  
Brent E. Dickson  
Chief Justice of Indiana

All Justices concur in this order, except Massa, J., who is not participating.