

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

JACK McCULLOUGH,	§	No. 08-09-00300-CV
Appellant,	§	Appeal from the
v.	§	109th District Court
WILLIAM P. DORNSIFE, WASTE	§	of Andrews County, Texas
CONTROL SPECIALISTS, LLC AND	§	(TC# 17,307)
HERTZ VEHICLES, LLC,	§	
Appellees.	§	

MEMORANDUM OPINION

This appeal is before the Court on its own motion for determination of whether it should be dismissed for want of prosecution. Finding that Appellant has failed to file a brief, we dismiss the appeal.

We possess the authority to dismiss an appeal for want of prosecution when the appealing party has failed to file his brief in the time prescribed, and gives no reasonable explanation for such failure. TEX. R. APP. P. 38.8(a)(1); *Elizondo v. City of San Antonio*, 975 S.W.2d 61, 63 (Tex. App. – San Antonio 1998, no writ). Appellant filed notice of appeal on November 19, 2009, and the clerk’s record and reporter’s record were filed on March 11, 2010. Therefore, Appellant’s brief or at the very least, an extension to file his brief, was due in this Court on April 10, 2010. *See* TEX. R. APP. P. 38.6(a) (providing that Appellant’s brief is due within thirty days from the date the record is filed). To date Appellant has failed to file either.

We notified Appellant by letter dated April 27, 2010, that it appeared he no longer wished to prosecute the appeal because he had not filed his brief or a motion for extension of time by the due date. We further informed Appellant of our intention to dismiss the appeal unless he could show

grounds for continuing the appeal within ten days from the date of the notice. Appellant has not filed his brief, a motion for extension of time, or any response to our inquiry. Therefore, we assume Appellant no longer wishes to pursue the appeal. As a result, we dismiss the appeal for want of prosecution pursuant to TEX. R. APP. P. 42.3(c) and 38.8(a)(1).

GUADALUPE RIVERA, Justice

July 14, 2010

Before Chew, C.J., McClure, and Rivera, JJ.