

DISMISS and Opinion Filed September 26, 2019



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-01296-CV

TERRELL E. BITTEN, Appellant
V.
STATE FARM INSURANCE, Appellee

On Appeal from the 44th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-18-08190

MEMORANDUM OPINION

Before Justices Bridges, Molberg, and Partida-Kipness
Opinion by Justice Bridges

Pro se appellant Terrell E. Bitten (Bitten) appeals the trial court's order granting appellee State Farm Insurance's (State Farm) motion to dismiss. Because Bitten's amended brief is deficient and fails to comply with the long-established briefing rules, we dismiss his appeal.

Bitten filed suit against State Farm alleging the following:

This Driver, Jordan Dargquea, 3 am, June 28, 2016, at 3 am in the morning, affected my life and my mental illness forever, has effected my hole right side of my body. My fear of cars. My phobia. My nerve system. My eyes and my movement, walking and balance, my teeth and the fever of darkness, heartship, and mental anger. My of other drivers.

State Farm filed a motion to dismiss asserting Bitten witnessed the auto accident, and under well-established Texas law, a third party cannot sue the insurer directly for benefits under the policy. *See State Farm Cty. Mut. Ins. Co. of Tex. v. Ollis*, 768 S.W.2d 722, 723 (Tex. 1989) (per

curiam) (“[A third party injured by an insured] cannot enforce the policy directly against the insurer until it has been established, by judgment or agreement, that the insured has a legal obligation to pay damages to the injured party.”); *Pain Control Inst., Inc. v. GEICO Gen. Ins. Co.*, 447 S.W.3d 893, 897 (Tex. App.—Dallas 2014, no pet.). Bitten filed a response to the motion to dismiss in which he argued State Farm “doesn’t have all the facts,” and he was the reason someone called 911 after the accident. The trial court granted State Farm’s motion to dismiss. This appeal followed.

Bitten filed his original brief on December 31, 2018. On January 7, 2019, this Court notified Bitten his brief failed to comply with appellate rule 38 for several reasons, including, but not limited to, his brief did not (1) concisely state all issues presented for review, (2) contain a concise statement of facts supported by record references, (3) contain a succinct, clear, and accurate statement of arguments in the body of the brief, and (4) include appropriate citations to authorities and to the record. *See* TEX. R. APP. P. 38.1(f)-(i). We cautioned Bitten that failure to file an amended brief that complied with the appellate rules “may result in dismissal of this appeal without further notice from the Court.”

We granted Bitten two extensions to file an amended brief. On March 19, 2019, Bitten filed his amended brief. Although his amended brief includes more facts about the alleged incident, he still has not provided any record citations to support his statements. Further, his amended brief does not present any specific issue for review supported by citation to any legal authority.

We recognize that Bitten is pro se; however, the right to self-representation carries with it the responsibility to adhere to our rules of evidence and procedure, including our appellate rules of procedure if a party chooses to represent himself at the appeal level. *See Bolling v. Farmers*

Branch Indep. Sch. Dist., 315 S.W.3d 893, 895 (Tex. App.—Dallas 2010, no pet.). We do not treat pro se litigants differently than parties represented by a licensed attorney. *Id.*

Because Bitten failed to comply with Texas Rule of Appellate Procedure 38 after the Court have him the opportunity to do so, we dismiss Bitten’s appeal.

/David L. Bridges/
DAVID L. BRIDGES
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

TERRELL E. BITTEN, Appellant

No. 05-18-01296-CV V.

STATE FARM INSURANCE, Appellee

On Appeal from the 44th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. DC-18-08190.

Opinion delivered by Justice Bridges.

Justices Molberg and Partida-Kipness
participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee STATE FARM INSURANCE recover its costs of this appeal from appellant TERRELL E. BITTEN.

Judgment entered September 26, 2019.