



**MEMORANDUM OPINION**

No. 04-08-00584-CV

Raymond H. **COE**,  
Appellant

v.

John **RODRIGUEZ**, et al.,  
Appellees

From the 81st Judicial District Court, Karnes County, Texas  
Trial Court No. 06-01-00003-CVK  
Honorable Ron Carr, Judge Presiding

PER CURIAM

Sitting:       Alma L. López, Chief Justice  
              Rebecca Simmons, Justice  
              Steven C. Hilbig, Justice

Delivered and Filed:   December 23, 2008

DISMISSED FOR WANT OF PROSECUTION

To date, appellant has failed to pay the applicable filing fee in this appeal. Texas Rule of Appellate Procedure 5 provides,

A party who is not excused by statute or these rules from paying costs must pay—at the time an item is presented for filing—whatever fees are required by statute or Supreme Court order. The appellate court may enforce this rule by any order that is just.

TEX. R. APP. P. 5.

On October 29, 2008, we ordered appellant to either (1) pay the applicable filing fee in this appeal or (2) provide written proof to this court that appellant is excused by statute or these rules from paying the filing fee on or before November 28, 2008. *See* TEX. R. APP. P. 20.1 (providing that party who qualifies as indigent under rule 20 may proceed without advance payment of costs). We warned that if appellant failed to respond within the time provided, this appeal would be dismissed. *See* TEX. R. APP. P. 42.3(c).

To date appellant has failed to pay the filing fee or provide written proof that he is excused from paying the filing fee. We, therefore, dismiss this appeal. *See id.*

PER CURIAM