



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-16-00066-CV

WILLIAM ANDERSON AND AISHA HENDERSON, Appellants

V.

DONELAINE DIXON, Appellee

On Appeal from the County Court at Law No. 1
Dallas County, Texas
Trial Court No. CC-16-00578-A

Before Morriss, C.J., Moseley and Burgess, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

William Anderson and Alisha Henderson, appellants, filed a notice of appeal in this matter on September 9, 2016. The appellate record in this appeal was due to be filed with this Court on or before October 21, 2016; however, that record has not been filed.

Rule 37.3(b) of the Texas Rules of Appellate Procedure states,

(b) *If No Clerk's Record Filed Due to Appellant's Fault.* If the trial court clerk failed to file the clerk's record because the appellant failed to pay or make arrangements to pay the clerk's fee for preparing the clerk's record, the appellate court may—on a party's motion or its own initiative—dismiss the appeal for want of prosecution unless the appellant was entitled to proceed without payment of costs. The court must give the appellant a reasonable opportunity to cure before dismissal.

TEX. R. APP. P. 37.3(b). Similarly, Rule 37.3(c) of the Texas Rules of Appellate Procedure states,

(c) *If No Reporter's Record Filed Due to Appellant's Fault.* Under the following circumstances, and if the clerk's record has been filed, the appellate court may—after first giving the appellant notice and a reasonable opportunity to cure—consider and decide those issues or points that do not require a reporter's record for a decision. The court may do this if no reporter's record has been filed because:

- (1) the appellant failed to request a reporter's record; or
- (2)(A) appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record; and
- (B) the appellant is not entitled to proceed without payment of costs.

TEX. R. APP. P. 37.3(c). Unless otherwise excused, a non-indigent appellant must either pay or make arrangements for the payment of the fees related to preparation of the appellate record to ensure that the record is timely filed. TEX. R. APP. P. 35.3(a)(2), (b)(3); *see* TEX. R. APP. P. 20.1(c), 37.3(b), (c). There is no indication that appellants are entitled to proceed without payment of costs,

and appellants have failed to pay or make arrangements to pay for preparation of the clerk's and reporter's records.

By letter dated November 10, 2016, and pursuant to Rules 37.3(b) and (c) of the Texas Rules of Appellate Procedure, our clerk's office provided appellants with notice of and an opportunity to cure these defects. *See* TEX. R. APP. P. 37.3(b), (c), 42.3(b), (c). The clerk's letter further warned appellants that, if an adequate response to our defect letter was not submitted within ten days of the date of the letter, this appeal would be subject to dismissal for want of prosecution. *See* TEX. R. APP. P. 42.3(b). We have received no communication from appellants responsive to the November 10 correspondence from our clerk's office, and we have not received the clerk's record or the reporter's record.

Pursuant to Rules 37.3(b) and (c) and 42.3(b) and (c) of the Texas Rules of Appellate Procedure, we dismiss this appeal for want of prosecution.

Josh R. Morriss, III
Chief Justice

Date Submitted: December 15, 2016
Date Decided: December 16, 2016