



IN THE  
TENTH COURT OF APPEALS

\_\_\_\_\_  
No. 10-15-00392-CV

TED L. ROBERTSON,

Appellant

v.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ET AL.,

Appellees

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From the 278th District Court  
Walker County, Texas  
Trial Court No. 1527503

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MEMORANDUM OPINION

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Appellant Ted L. Robertson, a pro se inmate, appeals from the dismissal of his suit as frivolous under Civil Practice and Remedies Code Chapter 14, which now applies to appellate proceedings. TEX. CIV. PRAC. & REM. CODE ANN. § 14.002(a) (West Supp. 2014); *Douglas v. Turner*, 441 S.W.3d 337, 338 (Tex. App.—Waco 2013, no pet.).

Section 14.004(a) requires the inmate to file an affidavit or declaration “relating to previous filings” in which the inmate must detail all previous actions filed pro se, other than a suit under the Family Code, accompanied by a certified copy of the inmate’s

account statement. TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(a), (c) (West Supp. 2014).

The filings required by chapter 14 are “an essential part of the process by which courts review inmate litigation.” *Douglas*, 441 S.W.3d at 339. The failure to file the affidavit or declaration “relating to previous filings” can result in dismissal without notice or hearing, *id.*, even if the failure to comply with chapter 14 can be remedied. *McLean v. Livingston*, 456 S.W.3d 358, 359-60 (Tex. App.—Waco 2015, pet. filed) (op. on reh’g); *see also Anderson v. Tex. Dep’t Crim. Just.*, --- S.W.3d ---, ---, 2015 WL 1570170, at \*2 (Tex. App.—Waco Mar. 19, 2015, no pet.). Furthermore, when the inmate fails to comply with the affidavit requirement, the court may assume that the current action is substantially similar to one previously filed by the inmate and is thus frivolous. *Id.*

In this appeal, Robertson did not file an affidavit or declaration “relating to previous filings” and a certified copy of his inmate account statement. We thus dismiss as frivolous this appeal.

PER CURIAM

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
(Justice Davis dissents with a note)\*

Dismissed

Opinion delivered and filed December 10, 2015  
[CV06]



\*(Justice Davis notes that he would notify Appellant of his section 14.004 deficiency and allow him the opportunity to cure it before dismissal. *See McLean*, 456 S.W.3d at 362-63 (Davis, J., dissenting); *see also Anderson*, --- S.W.3d at ---, 2015 WL 1570170, at \*3 (Davis, J., dissenting).)