

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-02-00485-CV**

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**Bertha Rayburn, Appellant**

**v.**

**Leonard May, Individually; and Leonard May Enterprises, Inc., Individually  
and d/b/a Oakland Manor Nursing Center, Appellees**

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**FROM THE DISTRICT COURT OF FAYETTE COUNTY, 155TH JUDICIAL DISTRICT  
NO. 95V-301, HONORABLE DANIEL R. BECK, JUDGE PRESIDING**

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Bertha Rayburn, the plaintiff in the underlying proceeding, appeals *pro se* from the district court's take-nothing judgment. We will dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 38.8(a)(1).

The Fayette County district clerk filed the clerk's record from the underlying proceeding in this Court on August 1, 2002. Rayburn's brief was due to be filed September 3, 2002. On September 20, 2002, this Court sent a notice to Rayburn informing her that her appellant's brief was overdue and also that her appeal could be dismissed for want of prosecution unless she reasonably explained the failure to file the brief and that the appellees are not significantly injured by the failure to timely file a brief. *See* Tex. R. App. P. 38.8(a)(1). To date, Rayburn has not responded to this Court's September 20 notice.

As Rayburn has not responded to this Court's notice, and further, has not paid the filing fees in this Court, we dismiss this appeal for want of prosecution.<sup>1</sup>

Jan P. Patterson, Justice

Before Chief Justice Aboussie, Justices Patterson and Puryear

Dismissed for Want of Prosecution

Filed: October 31, 2002

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<sup>1</sup> On October 11, 2002, appellees submitted a motion to dismiss the appeal. The appellees, however, failed to submit the filing fee for the motion, and the motion did not include a certificate of conference. Because of these defects, the motion has not been filed in this Court.