

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00427-CV

Jennifer Fleck, Appellant

v.

Justin Berry, Appellee

**FROM THE 459TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-GN-20-003981, THE HONORABLE MARGARET G. MIRABAL, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Jennifer Fleck challenges the district court's final judgment dated August 24, 2020. The clerk's record in her appeal was due in this Court on September 14, 2020. On September 15, 2020, we notified Fleck that no clerk's record had been filed due to her failure to pay or make arrangements to pay the trial clerk's fee for preparing the clerk's record. The notice requested that Fleck make arrangements to pay for the clerk's record or provide written documentation that she is presumed to be entitled to proceed without payment by September 25, 2020. Further, the notice advised Fleck that failure to comply with this request could result in the dismissal of the appeal for want of prosecution. To date, Fleck has not responded to this Court's notice, and the clerk's record has not been filed.

If the trial court's clerk fails to file the clerk's record due to an appellant's failure to pay or make arrangements to pay for the clerk's fee for preparing the record, the appellate

court may dismiss the appeal for want of prosecution unless the appellant is entitled to proceed without payment of costs. *See* Tex. R. App. P. 37.3(b). In this case, Fleck has not established that she is entitled to proceed without payment of costs. *See* Tex. R. Civ. P. 145. Therefore, because she has failed to pay or make arrangements to pay the clerk's fee for preparing the clerk's record, this appeal is dismissed for want of prosecution.

Edward Smith, Justice

Before Justices Goodwin, Baker, and Smith

Dismissed for Want of Prosecution

Filed: October 30, 2020