



NUMBER 13-20-00371-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

PAM ZIMMERMAN,

Appellant,

v.

CAROLE ATWELL,

Appellee.

**On appeal from the County Court at Law
of Aransas County, Texas.**

MEMORANDUM OPINION

**Before Justices Benavides, Hinojosa, and Silva
Memorandum Opinion by Justice Benavides**

Appellant Pam Zimmerman a/k/a Pamela Gwen Zimmerman filed a notice of appeal from a forcible detainer judgment rendered in favor of appellee Carole Atwell regarding property located at 110 B. North Sixth Street, Fulton, Texas, 78358. Zimmerman did not procure a reporter's record in support of her appeal. On December

2, 2020, the Clerk of this Court advised Zimmerman that her brief was due on January 4, 2021. Zimmerman did not file her brief or otherwise respond to the Clerk's notice. On January 11, 2021, the Clerk advised Zimmerman that her appeal would be dismissed for want of prosecution unless, within ten days, Zimmerman reasonably explained the failure to timely file her brief and Atwell was not significantly injured by the delay. See TEX. R. APP. P. 38.8. Zimmerman did not respond. On January 27, 2021, the Clerk again advised Zimmerman that her brief had not been timely filed, offered her another opportunity to cure this omission, and warned her that the appeal was subject to dismissal for want of prosecution. Zimmerman did not file her brief, file a motion for extension of time to file her brief, or otherwise respond to the Clerk's directive.

Atwell has now filed a motion to dismiss this appeal. Atwell recounts the foregoing sequence of events and further asserts that Zimmerman has failed to post the required supersedeas bond, the trial court has issued a writ of possession in Atwell's favor, and Zimmerman has vacated the property at issue in this lawsuit. Atwell requests that we dismiss the appeal and award her with \$1,320.00 in reasonable attorney's fees. Atwell's motion to dismiss is not verified and is supported by an affidavit limited in scope to the requested award of attorney's fees.

The Court, having examined and fully considered Atwell's motion to dismiss, is of the opinion that it should be granted in part and denied in part. See TEX. R. APP. P. 42.3. Appellant has neither prosecuted her appeal nor complied with the requirements of the appellate rules or notices from this Court requiring a response or other action. See *id.* R. 42.3(b), (c). Accordingly, we grant Atwell's motion to dismiss, in part, and we dismiss the

appeal. We deny Atwell's motion to dismiss, in part, regarding Atwell's request for attorney's fees.

GINA M. BENAVIDES
Justice

Delivered and filed on the
11th day of March, 2021.