

NO. 12-06-00095-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

ELIZABETH ELENA DARBY,
APPELLANT

§ ***APPEAL FROM THE 402ND***

V.

§ ***JUDICIAL DISTRICT COURT OF***

CHESTER DUANE DARBY,
APPELLEE

§ ***WOOD COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

This appeal is being dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). The reporter's record was due to have been filed by August 14, 2008. Although this deadline was extended to September 15, 2008, the reporter requested additional time for filing her record. She stated that the reason for the delay in filing the reporter's record was that Appellant had failed to pay for the preparation of the reporter's record and had not made any arrangement to pay for it.¹ On August 27, 2008, this court notified Appellant that the appeal would be submitted on the clerk's record alone unless proof of full payment to the reporter was provided to the court no later than September 8, 2008. *See* TEX. R. APP. P. 37.3(c). However, Appellant failed to respond to our August 27, 2008 notice or provide proof of payment. Consequently, on September 17, 2008, this court ordered that the case be submitted on the clerk's record alone and that the clerk's record was due on October 13, 2008.

¹ In a related appeal, we affirmed the trial court's order sustaining the contest to Appellant's affidavit of indigence. *See Darby v. Darby*, 12-06-00340-CV, 2008 WL 2043031, at *5 (Tex. App.—Tyler May 14, 2006, no pet.).

On October 10, 2008, this court notified Appellant that the district clerk had requested an extension of time to file the clerk's record, stating that Appellant had failed to pay for the preparation of the clerk's record and had not made any payment arrangement.² Appellant was also warned that the appeal would be dismissed unless Appellant provided this court proof of full payment to the clerk on or before October 20, 2008. Appellant neither responded to our October 10, 2008 notice or provided proof of full payment. Accordingly, Appellant's appeal is *dismissed for want of prosecution* pursuant to Texas Rule of Appellate Procedure 42.3(b).

Opinion delivered October 22, 2008.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

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² See n.1.