

NO. 12-07-00486-CV
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

***SUE MORRIS AND
FLOYD LEE MORRIS, JR.,
APPELLANTS***

§ APPEAL FROM THE THIRD

V.

§ JUDICIAL DISTRICT COURT OF

***GERALD MORRIS,
APPELLEE***

§ ANDERSON COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). Appellants perfected their appeal on December 21, 2007. After various extensions, the time for filing the reporter's record expired on August 10, 2008 due to Appellants' failure to pay for the record. Consequently, Appellants' brief was due on or before September 10, 2008. When Appellants failed to file their brief within the required time, this court notified them on September 12, 2008 that the brief was past due and warned that if no motion for extension of time to file the brief was received by September 22, 2008, the appeal would be dismissed for want of prosecution under Texas Rule of Appellate Procedure 42.3(b). The notice further informed Appellants that the motion for extension of time must contain a reasonable explanation for their failure to file the brief and a showing that Appellee had not suffered material injury thereby.

On September 23, 2008, the clerk of this court received a letter from Appellant Sue Morris, in which she requested an extension of time to file the brief and stated she had retained an attorney to "handle this" for her son, Appellant Floyd Lee Morris, Jr. On the same date, the clerk returned the letter to Mrs. Morris informing her that a motion for extension of time must comply with the Texas Rules of Appellate Procedure relating to motions, and that she should file a proper motion

on or before October 3, 2008. She was further notified that if a party has retained counsel in a case, all documents filed in that case must be presented by counsel. Finally, she was informed that if counsel had been retained, she should have counsel advise the court of his or her representation. To date, neither Appellants nor any attorney acting on behalf of either appellant has complied with or otherwise responded to this court's September 23, 2008 notice. Accordingly, we ***dismiss*** the appeal ***for want of prosecution***. See TEX. R. APP. P. 38.8(a)(1), 42.3.(b).

Opinion delivered October 8, 2008.

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

(PUBLISH)