

NO. 12-08-00375-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

MICHAEL KENNEDY,
APPELLANT

§ ***APPEAL FROM THE 3RD***

V.

§ ***JUDICIAL DISTRICT COURT OF***

JANICE STAPLES,
APPELLEE

§ ***ANDERSON COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

This appeal is being dismissed for Appellant's failure to comply with the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.3.

Appellant's docketing statement was due to have been filed at the time the appeal was perfected, i.e., September 19, 2008. *See* TEX. R. APP. P. 32.1. On that date, this court notified Appellant that he should file a docketing statement within ten days if he had not already done so. However, Appellant failed to file a docketing statement.

On October 2, 2008, this court issued a second notice advising Appellant that the docketing statement was past due and giving him until October 13, 2008 to comply with Rule 32.1. The notice further provided that failure to comply with this second notice would result in the appeal being presented for dismissal in accordance with Rule 42.3. The time for filing the docketing statement under this second notice has expired, and Appellant has not filed the docketing statement as required by Rule 32.1 and the court's notices.

Because Appellant has failed, after notice, to comply with Rule 32.1, the appeal is *dismissed*.

See TEX. R. APP. P. 42.3(c).

Opinion delivered October 22, 2008.

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

(PUBLISH)