

NO. 12-10-00292-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***RONALD SMITH,
APPELLANT***

§ APPEAL FROM THE 114TH

V.

§ JUDICIAL DISTRICT COURT OF

***AMERICA'S BEST VALUE
INN & SUITES,
APPELLEE***

§ SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed because Appellant, Ronald Smith, has failed to comply with the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.3. Pursuant to rule 32.1, Smith's docketing statement was due to have been filed at the time the appeal was perfected, i.e., August 31, 2010. *See* TEX. R. APP. P. 32.1. On September 2, 2010, this court notified Smith that he should file a docketing statement immediately if he had not already done so. By separate letter, also dated September 2, 2010, this court requested that Smith pay his filing fee on or before September 13, 2010. *See* TEX. R. APP. P. 5.

Because Smith did not pay his filing fee or file the docketing statement as requested in the September 2, 2010 letters, this court issued a second notice on September 17, 2010, advising Smith that the filing fee and the docketing statement were past due. The notice further provided that unless the filing fee was paid and the docketing statement filed on or before September 27, 2010, the appeal would be presented for dismissal in accordance with Texas Rule of Appellate Procedure 42.3. The September 27 deadline has passed, and Smith has not complied with the court's request. Because Smith has failed, after notice, to comply with rules 5 and 32.1, the appeal is *dismissed*. *See* TEX. R. APP. P. 42.3(c).

Opinion delivered September 30, 2010.

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

(PUBLISH)