

NO. 12-11-00301-CV
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

<i>JOHNNY M. MATTHIES,</i> <i>APPELLANT</i>	§	<i>APPEAL FROM THE 321ST</i>
<i>V.</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>PATRICIA HARRIS,</i> <i>APPELLEE</i>	§	<i>SMITH COUNTY, TEXAS</i>

MEMORANDUM OPINION
PER CURIAM

This pro se appeal is being dismissed for failure to comply with the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.3(c). The judgment in this case was signed on August 29, 2011. Appellant timely filed a notice of appeal that failed to contain the information required by Texas Rules of Appellate Procedure 9.5 and 25.1(e), i.e., a certificate of service showing service on all parties to the trial court's judgment.

On September 28, 2011, Appellant was notified pursuant to Texas Rule of Appellate Procedure 37.1 that the notice of appeal was defective for failure to comply with Rules 9.5 and 25.1(e). He was further notified that unless he filed an amended notice of appeal on or before October 28, 2011, the appeal would be referred to the court for dismissal. *See* TEX. R. APP. P. 42.3(c). The deadline for filing an amended notice of appeal has passed, and Appellant has not corrected his defective notice of appeal.

Additionally, the court requested by separate letter dated September 28, 2011, that Appellant remit the filing fee on or before October 10, 2011. In another notice, also dated September 28, 2011, the court notified Appellant, pursuant to Rule 32.1, that his docketing statement was due to have been filed at the time the appeal was perfected, i.e., September 26, 2011. *See* TEX. R. APP. P. 32.1. Because Appellant did not file his docketing statement at that time, this court requested that he file his docketing statement within ten days if he had not already done so. However, Appellant did not remit the filing fee or file the docketing statement as requested.

On October 14, 2011, the court again notified Appellant that the fee had not been paid

and the docketing statement had not been filed. The notice further provided that unless the filing fee was paid and the docketing statement filed on or before October 24, 2011, the appeal would be presented for dismissal in accordance with Texas Rule of Appellate Procedure 42.3. *See* TEX. R. APP. P. 5, 32.1. The October 24, 2011 deadline has passed, and Appellant has not complied with the court's request.

Because Appellant has failed, after notice, to amend his notice of appeal and to comply with Rules 5 and 32.1, the appeal is ***dismissed***. *See* TEX. R. APP. P. 42.3(c); ***Feist v. Berg***, No. 12-04-00004-CV, 2004 WL 252785, at *1 (Tex. App.-Tyler Feb. 11, 2004, pet. denied); ***Feist v. Hubert***, No. 12-03-00442-CV, 2004 WL 252285, at *1 (Tex. App.-Tyler Feb. 11, 2004, pet. denied).

Opinion delivered November 2, 2011.

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

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