

**DISMISS; and Opinion Filed August 2, 2013.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-11-00835-CV**

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**MARK POWELL YABLON, Appellant  
V.  
MARY ELIZABETH YABLON, Appellee**

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**On Appeal from the 199th Judicial District Court  
Collin County, Texas  
Trial Court Cause No. 199-51636-2009**

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**MEMORANDUM OPINION**

Before Chief Justice Wright, Justice FitzGerald, and Justice Lewis  
Opinion by Justice Lewis

By letter dated January 31, 2012, the Court notified appellant that the clerk's record in this case had not been filed because appellant had not paid for the preparation of the clerk's record. We directed appellant to provide the Court with written verification that he had paid for the record or that he was entitled to proceed without payment of costs. We cautioned appellant that if we did not receive such verification we would dismiss the appeal without further notice. Thereafter, on April 2, 2012, this Court issued an opinion affirming the trial court's order sustaining the contest to appellant's affidavit of indigence. On January 7, 2013 appellee filed a motion to dismiss this appeal for lack of prosecution. In the motion, appellee noted, among other things, that the clerk's record in this case had not been filed. By letter dated January 23, 2013, we directed appellant to file a response by February 4, 2013 and cautioned appellant that if he did not file a response the case might be dismissed without further notice. Appellant filed his

response on February 4, 2013. In his response, appellant asked the Court to “abate all decisions on [the] motion to dismiss until after the Texas Supreme Court rule[d on appellant’s] mandamus request which will be filed this week. The mandamus is in reference to the indigency matters before the Court.” By order dated February 15, 2013, we denied appellee’s motion “at this time.” Appellant did not, however, file a mandamus with the Supreme Court and has not otherwise corresponded with the Court regarding the status of this appeal. Because appellant has not paid for the clerk’s record, it has not been filed in this case.

Accordingly, on the Court’s own motion, we reconsider appellee’s January 23, 2013 motion to dismiss this appeal for lack of prosecution. We grant appellee’s motion and dismiss this appeal.

/David Lewis/  
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DAVID LEWIS  
JUSTICE

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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

MARK POWELL YABLON, Appellant

No. 05-11-00835-CV      V.

MARY ELIZABETH YABLON, Appellee

On Appeal from the 199th Judicial District  
Court, Collin County, Texas

Trial Court Cause No. 199-51636-2009.

Opinion delivered by Justice Lewis. Chief  
Justice Wright and Justice FitzGerald  
participating.

In accordance with this Court's opinion of this date, this appeal is **DISMISSED**.

It is **ORDERED** that appellee MARY ELIZABETH YABLON recover her costs of this  
appeal from appellant MARK POWELL YABLON.

Judgment entered this 2<sup>nd</sup> day of August, 2013.

/David Lewis/

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DAVID LEWIS

JUSTICE