

DISMISS and Opinion Filed November 20, 2018



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

No. 05-17-01322-CV

**SILVIA TORRES AS NEXT FRIEND OF N.E., A MINOR, Appellant
V.
NIEL FRANKLIN MCCOLLOUGH, Appellee**

**On Appeal from the County Court at Law No. 4
Dallas County, Texas
Trial Court Cause No. CC-16-00201-D**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Evans, and Justice Brown
Opinion by Chief Justice Wright

Appellant's brief in this case is overdue. By postcard dated January 18, 2018, we notified appellant the time for filing her brief had expired. We directed appellant to file a brief and an extension motion within ten days. We cautioned appellant that failure to file a brief and an extension motion would result in the dismissal of this appeal without further notice.

By order dated February 7, 2018, we granted appellant's first motion to extend time to file her brief and extended the time to file appellant's brief until February 27, 2018. By postcard dated March 1, 2018, we again notified appellant the time for filing her brief had expired. We directed appellant to file a brief and an extension motion within ten days. We cautioned appellant that failure to file a brief and an extension motion would result in the dismissal of this appeal without further notice. By order dated March 15, 2018, we granted appellant's second motion to extend

time to file her brief and extended the time to file the brief until March 29, 2018. In that order, we expressly cautioned appellant that further extensions of time to file her brief would be disfavored.

After granting appellant three extensions of time to file her brief, we dismissed this appeal for failure to prosecute on April 24, 2018. Appellant filed her motion to reinstate thirty-one days later, well outside the fifteen-day period for filing a motion for rehearing, but on the last day which we could grant an extension for such a motion. *See* TEX. R. APP. P. 49.1, 49.8. Appellant did not file a motion to extend time to file a motion for rehearing, nor did appellant tender her brief with her motion. After the clerk contacted appellant, she filed an extension motion on June 15, 2018.

By order dated June 21, 2018, we granted appellant's motion to extend time to file her motion for rehearing and ordered appellant's motion to reinstate that was received by the Court on May 25, 2018 to be filed as of that date. Additionally, we granted appellant's motion to reinstate and vacated our opinion and judgment of April 24, 2018. We extended the time to file appellant's brief until 5:00 p.m. on July 18, 2018. To date, appellant has not filed a brief or otherwise corresponded with the Court regarding the status of this appeal.

Accordingly, we **DISMISS** this appeal. *See* TEX. R. APP. P. 42.3(b), (c).

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

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

JUDGMENT

SILVIA TORRES AS NEXT FRIEND OF
N.E., A MINOR, Appellant

No. 05-17-01322-CV V.

NIEL FRANKLIN MCCOLLOUGH,
Appellee

On Appeal from the County Court at Law
No. 4, Dallas County, Texas
Trial Court Cause No. CC-16-00201-D.
Opinion delivered by Chief Justice Wright.
Justices Evans and Brown participating.

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

It is **ORDERED** that appellee NIEL FRANKLIN MCCOLLOUGH recover his costs of this appeal from appellant SILVIA TORRES AS NEXT FRIEND OF N.E., A MINOR.

Judgment entered November 20, 2018.