

Opinion issued August 11, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00033-CV

STEPHEN D. DIFERRANTE, Appellant

V.

GEORGE WESLEY BRUNER, Appellee

**On Appeal from the County Civil Court at Law No. 3
Harris County, Texas
Trial Court Case No. 1068375**

MEMORANDUM OPINION

Appellant, Stephen D. Diferrante, has neither established indigence, nor paid, or made arrangements to pay, the fee for preparing the clerk's record. *See* TEX. R. APP. P. 20.1 (listing requirements for establishing indigence), 37.3(b) (allowing dismissal of appeal if no clerk's record filed due to appellant's fault). To proceed in

the appellate court without payment of costs, an appellant must file an affidavit of indigence in the trial court with or before the notice of appeal and the affidavit must be in compliance with the requirements of Rule 20.1(b). *See* TEX. R. APP. P. 20.1(a)(2), (b). The previous filing of an affidavit of indigence in the trial court does not meet the requirement of Rule 20.1. *See id.* at 20.1(c)(1). After being notified that this appeal was subject to dismissal, appellant responded that he had filed an affidavit of indigence, but the affidavit was filed in the trial court and not pursuant to Rule 20.1. Accordingly, this previously-filed affidavit does not satisfy the requirements of Rule 20.1. *See* TEX. R. APP. P. 20.1(c).

We dismiss the appeal for want of prosecution. *See* TEX. R. APP. P. 42.3(b) (allowing involuntary dismissal). We dismiss all pending motions as moot.

PER CURIAM

Panel consists of Justices Keyes, Brown, and Huddle.