

Opinion issued February 15, 2018



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-17-00679-CV

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**HELEN FINET, Appellant**

**V.**

**DR. PATRICK MCCULLOCH AND DOMITILLE MCCULLOCH,  
Appellees**

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**On Appeal from the 165th District Court  
Harris County, Texas  
Trial Court Case No. 2017-36101**

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**MEMORANDUM OPINION**

Appellant Helen Finet has failed to timely file a brief in this accelerated appeal from a temporary injunction issued on August 11, 2017.

The appellate record was due to be filed within 10 days of the notice of appeal. TEX. R. APP. P. 35.1(b). But one month after the notice of appeal was filed, the trial

court clerk notified this court that appellant had not made arrangements to have the record timely filed. On September 12, 2017, the clerk of this court notified appellant's counsel that the record was due within 10 days, and that the appeal otherwise would be eligible for dismissal for want of prosecution. The clerk's record was finally filed on September 25, 2017, but the reporter's record was not filed until October 9, 2017, nearly two months after the notice of appeal.

Once the record was filed, appellant's brief in this accelerated appeal was originally due on October 30, 2017. *See* TEX. R. APP. P. 38.6(a). That deadline came and went without anything filed on behalf of appellant. Accordingly, the clerk of this court issued a notice on November 13, 2017, stating that the time for filing the brief had expired, and that if appellant intended to file a brief, she must file a motion requesting an extension of time. *See* TEX. R. APP. P. 38.6(d). Otherwise the appeal was once again eligible for dismissal for want of prosecution. *See* TEX. R. APP. P. 42.3(b). That deadline again came and went without anything filed on behalf of appellant.

On December 11, 2017—well over a month after the appellant's brief in this accelerated appeal was originally due—appellant filed her first motion to extend time to file a brief, which was opposed. The motion sought an extension of time until January 2, 2018. This opposed motion was granted, with the notice from this court noting that “no further extensions” would be permitted.

The deadline again passed without a brief being filed. The clerk of this court sent yet another late-brief notice, calling for the filing of a brief within 10 days, and otherwise notifying appellant's counsel for the third time that the appeal could be dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). That deadline was ignored, and instead, on January 31, 2018, appellant's counsel filed another opposed motion to extend time to file the brief. This motion requested an extension until February 9, 2018, and stated: "Counsel will have the brief filed by the date of the extension sought herein without further extension."

February 9, 2018 passed, and no brief was filed.

In total, six months now have passed since the notice of this interlocutory appeal was filed, and the appellant still has failed to file an opening brief. After being notified that the appeal was subject to dismissal, appellant did not appropriately respond. *See* TEX. R. APP. P. 38.8(a)(1) (authorizing dismissal for failure to file brief); TEX. R. APP. P. 42.3(b) (allowing involuntary dismissal of case).

Accordingly, we dismiss the appeal for want of prosecution. We dismiss any pending motions as moot.

**PER CURIAM**

Panel consists of Chief Justice Radack and Justices Massengale and Brown.