

Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-09-00669-CV

THE UNKNOWN HEIRS, Successors and Assigns of Joaquin Chapa, Deceased,
Appellants

v.

ESTATE OF IGNACIA GUTIERREZ Deceased,
By and Through Its Independent Executors, Maria Del Rosario G. Pope, et al.,
Appellees

From the 229th District Court, Starr County, Texas
Trial Court No. DC-01-50
Honorable Alex William Gabert, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Justice
Phylis J. Speedlin, Justice
Rebecca Simmons, Justice

Delivered and Filed: January 20, 2010

APPEALS DISMISSED IN PART

A filing fee of \$175.00 was due when this appeal was filed, but has not been paid by the following parties: (1) appellants, the Fowler Defendants; (2) appellants, the Rubin Defendants; (3) appellants, the Becerra Intervenors/Defendants; and (4) appellants, the Rodriguez Defendants. *See* TEX. GOV'T CODE ANN. §§ 51.207(b)(1), 51.941(a)(1) (Vernon 2005); TEXAS SUPREME COURT ORDER REGARDING FEES CHARGED IN CIVIL CASES IN THE SUPREME COURT AND THE COURTS OF

APPEALS (July 21, 1998) § B.1.(a). The clerk of the court notified each group of appellants of this deficiency in letters dated October 16, 2009. The fees remain unpaid. Rule 5 of the Texas Rules of Appellate Procedure provides:

A party who is not excused by statute or these rules from paying costs must pay – at the time an item is presented for filing – whatever fees are required by statute or Supreme Court order. The appellate court may enforce this rule by any order that is just.

TEX. R. APP. P. 5.

Accordingly, on December 8, 2009, this court ordered appellants to either (1) pay the applicable filing fee or (2) provide written proof to this court that they are excused by statute or the Rules of Appellate Procedure from paying the fee. *See* TEX. R. APP. P. 20.1 (providing that indigent party who complies with provisions of that rule may proceed without advance payment of costs). Our order informed appellants that if they failed to respond satisfactorily within the time ordered, their appeals would be dismissed. *See* TEX. R. APP. P. 42.3. On December 17, 2009, the Rubin Defendants paid the \$175.00 for their appeal. None of the other appellants paid the fee.

Accordingly, the appeals of the Fowler Defendants, the Becerra Intervenors/Defendants, and the Rodriguez Defendants are all DISMISSED.

PER CURIAM