

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



MEMORANDUM OPINION

No. 04-09-00686-CV

Adalberto **LUNA** Sr,
Appellant

v.

Esther P. **GALLARDO**,
Appellee

From the 341st Judicial District Court, Webb County, Texas
Trial Court No. 2007-CVQ-000782-D3
Honorable Elma T. Salinas Ender, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Marialyn Barnard, Justice

Delivered and Filed: January 27, 2010

DISMISSED

When appellant Adalberto Luna Sr. filed this appeal, he was required to pay a \$175.00 filing fee. *See* TEX. GOV'T CODE ANN. §§ 51.207(b)(1), 51.941(a) (Vernon 2005); *id.* §§ 51.208, 51.0051 (Vernon Supp. 2009); TEXAS SUPREME COURT ORDER REGARDING FEES CHARGED IN CIVIL CASES IN THE SUPREME COURT AND THE COURTS OF APPEALS AND BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (Misc. Docket No. 07-9138, Aug. 28, 2007) § B.1.(a). Appellant did

not pay the required filing fee. Accordingly, the clerk of this court notified appellant by letter on October 23, 2009, that his notice of appeal was conditionally filed and the filing fee was due no later than November 16, 2009. On December 15, 2009, when the fee remained unpaid, this court ordered that appellant must, not later than December 28, 2009, either (1) pay the applicable filing fee or (2) provide written proof to this court that he/she is indigent or otherwise excused by statute or the Texas Rules of Appellate Procedure from paying the fee. *See* TEX. R. APP. P. 5 (“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.”). The court advised appellant that if he failed to respond satisfactorily within the time ordered, the appeal would be dismissed. *See* TEX. R. APP. P. 42.3.

The filing fee has not been paid, and appellant has not otherwise responded to our December 14, 2009 order. We therefore **order** this appeal dismissed for want of prosecution. We further **order** appellant to bear all costs of this appeal.

PER CURIAM