

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



MEMORANDUM OPINION

No. 04-10-00282-CV

Emilio **ALEMAN** and Isabel C. Aleman,
Appellants

v.

Manuela **ZAVALA**, Consuelo Tinajero, Angelina Zavala, Gilbert Zavala, et al,
Appellees

From the 131st Judicial District Court, Bexar County, Texas
Trial Court No. 2007-CI-16346
Honorable Antonia Arteaga, Judge Presiding

PER CURIAM

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

Delivered and Filed: October 6, 2010

DISMISSED FOR WANT OF PROSECUTION

The reporter's record was originally due on May 7, 2010. On May 21, 2010, this court notified the court reporter that the reporter's record was late. The court reporter responded to our notice by filing a Notification of Late Record stating the reporter's record was not filed because appellants have not requested a reporter's record. If appellants desire a reporter's record to be filed in this appeal, they must request that a reporter's record be prepared. *See* TEX. R. APP. P. 34.6(b)(1). Accordingly, on June 8, 2010, this court issued an order ordering appellants to (1)

request in writing that a reporter's record be prepared and (2) designate in writing the exhibits and those portions of the record to be included in the reporter's record, if they desired a reporter's record. *Id.* The appellants were also ordered to file a copy of the request with both the trial court clerk, *id.* at 34.6(b)(2), and this court. Our order informed appellants that if they failed to respond within the time provided, their brief would be due within thirty (30) days from the date of the June 8, 2010 order, and the court would only consider those issues or points raised in appellants' brief that do not require a reporter's record for a decision. *See* TEX. R. APP. P. 37.3(c). Because appellants did not request a reporter's record, their brief, without reference to the reporter's record was due on July 8, 2010. No response was filed.

Accordingly, on July 20, 2010, appellants were ordered to file their brief no later than August 9, 2010. Our order informed appellants that if they failed to file the brief within the time provided the appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 38.8(a). Appellants did not respond. Accordingly, on August 30, 2010, appellants were ordered to show cause in writing, no later than September 10, 2010, why this appeal should not be dismissed for want of prosecution. No response has been filed.

The appeal is dismissed for want of prosecution. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b). Costs of appeal are taxed against appellants.

PER CURIAM