

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



MEMORANDUM OPINION

No. 04-10-00483-CV

IN THE INTEREST OF I.B.M., Z.A.M., and B.M.

From the 150th Judicial District Court, Bexar County, Texas
Trial Court No. 2009-PA-00977
Honorable Charles E. Montemayor, Judge Presiding

PER CURIAM

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

Delivered and Filed: September 15, 2010

DISMISSED

A filing fee of \$175.00 was due from appellant Benjamin Martinez when this appeal was filed but the fee was not paid. *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). 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 August 5, 2010, this court ordered appellant to either (1) pay the applicable filing fee or (2) provide written proof to this court that he is 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 appellant that if he failed to provide such written proof within the time ordered, this appeal would be dismissed. *See* Tex. R. App. P. 42.3. Appellant has not responded. Accordingly, this appeal is dismissed. Costs of appeal are assessed against appellant.

PER CURIAM