



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00535-CV

Fernando **ARIAS**,
Appellant

v.

Erica Jo **ARIAS**,
Appellee

From the 438th Judicial District Court, Bexar County, Texas
Trial Court No. 2013-CI-04141
Honorable John D. Gabriel, Jr., Judge Presiding

PER CURIAM

Sitting: Marialyn Barnard, Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: October 9, 2013

DISMISSED FOR WANT OF PROSECUTION

On July 3, 2013, appellant filed a notice of appeal from the trial court's judgment signed June 6, 2013. The record was due August 5, 2013, sixty days after the judgment was signed. *See* TEX. R. APP. P. 35.1. On August 7, 2013, the District Clerk of Bexar County filed a notification of late record stating the clerk's record had not been filed because appellant had not paid or made arrangements to pay the clerk's fee to prepare the record and is not entitled to appeal without paying the fee. On August 9, 2013, we ordered appellant to provide written proof to this court on or before August 19, 2013, that either (1) the clerk's fee has been paid or arrangements had been

made to pay the clerk's fee; or (2) he is entitled to appeal without paying the clerk's fee. We cautioned appellant that if he failed to respond within the time provided, his appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 37.3(b). Appellant has not filed a response.

We therefore **order** this appeal dismissed for want of prosecution. We further **order** that appellee, Erica Jo Arias, recover her costs of this appeal from appellant.

PER CURIAM