



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00720-CV

Marilyn **STEWART**,
Appellant

v.

THE CITY OF SAN ANTONIO,
Appellee

From the 45th Judicial District Court, Bexar County, Texas
Trial Court No. 2012-CI-09344
Honorable Cathleen M. Stryker, Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Santee Bryan Marion, Justice

Delivered and Filed: July 23, 2014

DISMISSED

On October 1, 2013, the trial court signed a permanent injunction authorizing the City of San Antonio to demolish the structure at 1010 Denver, San Antonio, Texas. On October 17, 2013, appellant filed a notice of appeal and affidavit of indigence. The trial court clerk contested the affidavit, stating that appellant is not indigent and is capable of paying all costs and fees for this appeal. The City of San Antonio also contested the affidavit, asserting that appellant was not entitled to a free record because her appeal is frivolous. The appeal was abated to the trial court for a hearing on the contest, and the trial court determined the appeal to be frivolous. On April 30,

2014, this court affirmed the trial court's order finding the appeal frivolous and ordered appellant to file written proof with this court by May 15, 2014, that she had paid or made arrangements to pay the fee for the preparation of the clerk's record and reporter's record for this appeal. *See Stewart v. City of San Antonio*, No. 04-13-00720-CV, 2014 WL 1713532 (Tex. App.—San Antonio Apr. 30, 2004, order) (mem. op.).

On May 14, 2014, the trial court clerk filed a notification of late record stating that appellant had “made a payment arrangement, with the first payment of \$10.00 to be paid on or around May 28, 2014.” At the top of the notification of late record, appellant added a handwritten note stating, “This is proof of payment arrangement for the clerk's record.” The trial court clerk informed this court that the total cost of the clerk's record would be \$80.00. Because the notification of late record and the appellant's note did not provide this court with sufficient information to determine whether a satisfactory arrangement had been made to pay the fees for preparing the clerk's record and reporter's record, appellant was ordered to provide the court with specific dates when all of the fees for the clerk's record and reporter's record would be paid.

On May 23, 2014, appellant filed a letter stating that she intended to pay \$10.00 every two weeks until the fees are paid in full. The court reporter informed this court that the fee for preparing the reporter's record would be approximately \$500.00. Given the approximate total fees of \$580.00, this court determined that the payment of \$10.00 every two weeks did not constitute “satisfactory arrangements” for the payment of the fees. *See TEX. R. APP. P. 35.3(a)(2), (b)(3)*. Accordingly, appellant was ordered to provide written proof that she had paid the total amount of the fees no later than July 1, 2014. The order stated that if appellant did not provide written proof that the fees had been paid in full by July 1, 2014, this appeal would be dismissed. *See TEX. R. APP. P. 37.3(b)*.

On July 1, 2004, appellant filed a letter notifying the court that she had been unable to pay the total amount of the fees due. Accordingly, this appeal is dismissed. *See id.*; *see also Stewart*, 2014 WL 1713532, at *2.

PER CURIAM