



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00870-CV

Frank **HERRERA** Jr.,
Appellant

v.

TEXAS STATE BOARD OF PLUMBING EXAMINERS,
Appellee

From the 45th Judicial District Court, Bexar County, Texas
Trial Court No. 2013-CI-18829
Honorable Dick Alcala, Judge Presiding

Opinion by: Patricia O. Alvarez, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Marialyn Barnard, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: July 8, 2015

DISMISSED FOR WANT OF PROSECUTION

On September 9, 2014, we notified pro se Appellant Frank Herrera Jr. that the brief filed on September 3, 2014, failed to comply with Rule 38.1 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 38.1. We recited some of the defects in his brief: e.g., no part of the brief contained any citations to the record, the brief failed to list or cite any authorities to support Appellant's arguments, and the brief contained no proof of service. *See id.* R. 9.5(d), (e).

We struck Appellant's brief and ordered him to file an amended brief that corrected the listed deficiencies and fully complied with the applicable rules. *See, e.g., id.* R. 9.4, 9.5, 38.1. We

warned Appellant that if the amended brief did not comply with our order, we could “strike the brief and prohibit appellant from filing another.” *See id.* R. 38.9(a). We also cited Rule 38.8(a)(1) which allows this court to dismiss an appeal for want of prosecution. *See id.* R. 38.8(a)(1).

On September 30, 2014, Appellant filed an amended brief. The seven-page brief identifies the parties, includes a table of contents, but contains no index of authorities. The brief presents sections titled Issues, Statement of the Case, Request for Oral Argument, Statement of Facts, and Prayer; these sections comprise a total of four pages. The brief contains no citations to the appellate record; it contains only fact-oriented complaints.

Herrera’s brief fails to identify the standard of review and contains no Argument section. *Contra* TEX. R. APP. P. 38.1(i) (requiring “clear and concise argument for the contentions made, with appropriate citations to authorities and to the record”). Nowhere is his brief is there “any citation of appropriate legal authority, or any analysis applying the appropriate legal authority to the facts of [his] case in such a manner as to demonstrate the trial court committed reversible error when it granted [the State’s plea to the jurisdiction based on Herrera’s failure to comply with administrative procedures requirements].” *See Canton-Carter v. Baylor Coll. of Med.*, 271 S.W.3d 928, 931 (Tex. App.—Houston [14th Dist.] 2008, no pet.).

Even liberally construing Appellant’s brief, we conclude it is wholly inadequate to present any questions for appellate review. *See id.* at 931–32; *Ruiz v. State*, 293 S.W.3d 685, 693 (Tex. App.—San Antonio 2009, pet. ref’d); *Robert L. Crill, Inc. v. Bond*, 76 S.W.3d 411, 423 (Tex. App.—Dallas 2001, pet. denied). We strike Appellant’s amended brief and dismiss this appeal for want of prosecution. *See* TEX. R. APP. P. 38.8(a)(1), 38.9(a), 42.3(b).

Patricia O. Alvarez, Justice