



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-15-00440-CV

Joe **GOMEZ** and Janie **GOMEZ**,
Appellants

v.

Thomas L. **DASHIELL**,
Appellee

From the County Court at Law, Kendall County, Texas
Trial Court No. 15-241-CCL
Honorable Bill R. Palmer, Judge Presiding

PER CURIAM

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

Delivered and Filed: November 18, 2015

DISMISSED FOR WANT OF PROSECUTION

On June 29, 2015, appellants Joe Gomez and Janie Gomez filed what this court construed as a notice of appeal from the county court's June 18, 2015 judgment of eviction. On July 6, 2015, appellants filed an affidavit of inability to pay costs in this court. Appellants also filed the affidavit in the trial court with or before the notice of appeal as required. *See* TEX. R. APP. P. 20.1 (c)(1). By order dated July 21, 2015, we ordered the clerk of this court to send copies of the affidavit and our order to the trial court, the trial court clerk, the court reporter, and all parties and/or counsel. *See* TEX. R. APP. P. 20.1 (d)(2). We further ordered that anyone who desired to file a contest to

the affidavit to file such contests in this court on or before July 31, 2015. No contests were filed. Because no contests were filed, appellants were considered indigent for purposes of this appeal. Both the clerk's record and the reporter's record were then filed in this court. Accordingly, appellants' brief was originally due September 11, 2015. However, neither the brief nor a motion for extension of time was filed.

Based on the foregoing, on September 25, 2015, we ordered appellants to file their appellants' brief and a written response reasonably explaining their failure to timely file their brief in this court on or before October 5, 2015. We advised appellants that if they failed to file their brief and written response as ordered, we would dismiss their appeal for want of prosecution. *See* TEX. R. APP. P. 38.8(a). On October 4, 2015, by way of informal communication, appellants notified this court that they would be filing their brief via facsimile. The next day, on October 6, 2015, appellants filed a letter, stating the reasons they failed to file a brief by the original due date was because (1) they had not received a court order to file a brief by September 11, 2015 and (2) they had no access to the internet. However, a brief was not filed with the letter.

Accordingly, on October 14, 2015, we ordered appellants to file their appellants' brief and a written response reasonably explaining their failure to timely file the brief. We again advised appellants that if they failed to file their brief and the written response as ordered, we would dismiss their appeal for want of prosecution. *See* TEX. R. APP. P. 38.8(a). We further advised that no further extensions of time to file their brief would be granted absent written proof of extraordinary circumstances, and informal communications would not be considered as a substitute for a brief and written response. Appellants have not filed a brief or written response as ordered by the court.

We therefore **order** this appeal dismissed for want of prosecution. We further **order** that appellee, Thomas L. Dashiell, recover his costs in this appeal from appellants Joe Gomez and Janie Gomez.

PER CURIAM