



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00394-CV

Jordan Bautista **GUNTER**,
Appellant

v.

CITY OF PEARSALL, Michael Guerrero, District Attorney for the 81st District,
and Robert F. Lipo,
Appellees

From the 81st Judicial District Court, Frio County, Texas
Trial Court No. 17-01-00015CVF
Honorable Russell Wilson, Judge Presiding

PER CURIAM

Sitting: Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice
Irene Rios, Justice

Delivered and Filed: December 20, 2017

DISMISSED

Appellant Jordan Bautista Gunter, an indigent inmate acting pro se in a civil suit, filed a notice of appeal with this court, but he failed to file an accompanying affidavit or unsworn declaration relating to his previous suits, or a certified copy of his trust account statement. On September 25, 2017, we ordered Gunter to file (1) a separate affidavit or unsworn declaration listing the previous pro se actions he has brought and (2) a certified copy of his inmate trust account statement. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 14.004 (West Supp. 2017). In our order, we warned Appellant that if he failed to comply with the statutory requirements, we could dismiss

his appeal without further notice. Because Appellant failed to comply with the statute and our September 25, 2017 order, we dismiss this appeal.

BACKGROUND

Appellant Jordan Bautista Gunter, an inmate acting pro se in a civil suit, filed a notice of appeal with this court on June 21, 2017. In the trial court, he alleged he was indigent and moved to proceed without paying costs of court. Appellant's notice of appeal did not state that he was presumed indigent under Rule 20.1(b), but he asserted he could not afford to pay costs in his civil suit. *See* TEX. R. APP. P. 20.1(b)(2) (“[A] party must communicate to the appellate court clerk in writing that the party is presumed indigent under this rule.”).

On September 25, 2017, we ordered Appellant to file in this court within thirty days of the date of the order (1) a separate affidavit or unsworn declaration listing the previous pro se actions he has brought and (2) a certified copy of his inmate trust account statement. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 14.002(a) (applying affidavit or unsworn declaration and other requirements to inmate appeals); *id.* § 14.004 (requiring a pro se inmate asserting inability to pay costs to file a detailed list of previous pro se actions and a certified copy of the inmate's trust account statement). We advised Appellant that his affidavit or unsworn declaration and certified statement must be timely filed and must meet the applicable statutory requirements. *E.g., id.* § 14.004(a) (affidavit or declaration of actions); *id.* § 14.004(b) (dispositions); *id.* § 14.004(c) (account statement). We warned Appellant that we could dismiss his appeal **without further notice** if he failed to timely file the statutorily required documents. *Cf. Douglas v. Moffett*, 418 S.W.3d 336, 340 (Tex. App.—Houston [14th Dist.] 2013) (dismissing an appeal where an inmate failed to comply with Chapter 14 requirements); *Amir-Sharif v. Mason*, 243 S.W.3d 854, 857 (Tex. App.—Dallas 2008, no pet.) (recognizing that a trial court may dismiss an indigent inmate's suit without notice or hearing for failing to file the previous actions affidavit or declaration).

We mailed a copy of the order to the federal prison address on file, but the order was returned. On October 11, 2017, we resent the order with the correct identification number and reset the response due date for thirty days from the date the order was mailed—for a response due date of November 13, 2017.

DISPOSITION OF APPEAL

“Appellant was required to file a separate affidavit containing all the information required by the statute.” *Rodarte v. Beneficial Tex. Inc.*, 482 S.W.3d 246, 248 (Tex. App.—San Antonio 2017, pet. denied) (citing *Amir-Sharif*, 243 S.W.3d at 858). On November 21, 2017, Appellant filed his response. He listed a single action that identified the court in which the action was brought, the defendant, the disposition (“Dismissal Motion by Plaintiff”), but nothing more. Appellant failed to state the case name, the cause number, when the cause was filed, “the operative facts for which relief was sought,” or whether the suit was determined to be frivolous or malicious. *Contra* TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(a)(2); *Rodarte*, 482 S.W.3d at 248. Further, Appellant failed to file a certified copy of the trust account statement. *Contra* TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(c). Even after he was warned, Appellant failed to provide the information required by statute and ordered by this court. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 14.004; *Rodarte*, 482 S.W.3d at 248; *Amir-Sharif*, 243 S.W.3d at 857.

Appellant failed to provide a complete affidavit relating to previous filings. *See Rodarte*, 482 S.W.3d at 248 (quoting *Douglas*, 418 S.W.3d at 340). This appeal is dismissed.

PER CURIAM