



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-20-00578-CV

José Samalea **SOSA**,
Appellant

v.

Rebecca **GARZA**,
Appellee

From the 285th Judicial District Court, Bexar County, Texas
Trial Court No. 2019-CI-13876
Honorable Angelica Jimenez, Judge Presiding

PER CURIAM

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

Delivered and Filed: March 31, 2021

DISMISSED FOR WANT OF PROSECUTION

In the case underlying this appeal, Appellant timely filed a notice of appeal on November 30, 2020. *See* TEX. R. APP. P. 26.1. But he paid no filing fee and filed no docketing statement. *Contra id.* R. 5 (requiring fees in civil cases); *id.* R. 32.1 (requiring a docketing statement). A deputy clerk of this court notified Appellant in writing to pay his filing fee and file his docketing statement by December 14, 2020, and later sent notice of the missing items on January 14, 2021. On January 20, 2021, a deputy clerk of this court called Appellant's counsel and left a message with an office assistant regarding the late payment and failure to file an amended notice of appeal.

See id. R. 5; *id.* R. 25.1(e), (g) (requiring an appellant to give notice of notice to the court reporter and to amend a defect or omission in the notice of appeal). On January 26, 2021, this court received a call from counsel's office stating that Appellant would file something within forty-eight hours. Nothing was filed.

On February 10, 2021, we ordered Appellant to file an amended notice of appeal and docketing statement, and to submit payment or a Statement of Inability to Afford Payment of Court Costs by February 20, 2021, or the case would be dismissed for want of prosecution. *See id.* R. 5, 42.3; *In re W.J.C.*, No. 04-05-00532-CV, 2005 WL 3477883, at *1 (Tex. App.—San Antonio Dec. 21, 2005, no pet.) (mem. op.).

On February 25, Appellant advised this court that the trial court granted a new trial sua sponte on January 21, 2021, and that he would not pursue his appeal. Appellant suggested that this court dismiss the appeal as moot, and Appellant did not pay the filing fee. *Contra* TEX. R. APP. P. 5; *In re W.J.C.*, 2005 WL 3477883, at *1. On March 2, 2021, Appellant filed an amended notice with a corrected trial court cause number.

We dismiss this appeal for want of prosecution. *See* TEX. R. APP. P. 37.3(b), 42.3(b), (c).

PER CURIAM