

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-08-108 CV

GEORGIA BLACK, Appellant

V.

**CHRISTUS ST. ELIZABETH HOSPITAL OF BEAUMONT, TEXAS,
SHUNGMAN KIRBY LEE, and ERIC ADAM MARK, Appellees**

**On Appeal from the 136th District Court
Jefferson County, Texas
Trial Cause No. A-179,827**

MEMORANDUM OPINION

The brief of the appellant, Georgia Black, was due on May 14, 2008, but has not been filed. On June 6, 2008, we notified the parties that the appeal would be submitted without briefs unless we received either the brief and a motion for extension of time within ten days. On June 2, 2008, appellee, Shungman Kurt Lee, filed a motion to dismiss the appeal.¹ Lee

¹The plaintiff's petition incorrectly referred to Christus Health Southeast Texas d/b/a Christus Hospital St. Elizabeth as "Christus St. Elizabeth Hospital of Beaumont, Texas," Shungman Kurt Lee as "Shungman Kirby Lee," and Eric Mark as "Eric Adam Mark."

contends the appellant filed her notice of appeal three days after the deadline, and in the alternative contends the appeal should be dismissed because the appellant failed to prosecute her appeal. The appellant did not respond to the Lee's motion or request additional time to file her brief.

The appellant filed notice of appeal within fifteen days after the deadline for filing notice of appeal. *See* TEX. R. APP. P. 26.3. Although the appellant perfected an appeal within the period of time permitted for an extension, she failed to timely file a brief or to provide a satisfactory explanation for her failure to timely file the brief. Accordingly, we grant appellee Lee's motion and dismiss the entire appeal for want of prosecution. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b). We deny appellee Lee's request for damages arising from defending a frivolous appeal. *See* TEX. R. APP. P. 45. Costs are assessed against the appellant.

APPEAL DISMISSED.

CHARLES KREGER
Justice

Opinion Delivered June 26, 2008

Before Gaultney, Kreger, and Horton, JJ.