

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-18-00416-CV

ELLOYD JOHNSON, Appellant

V.

MATT GOSS AND J. BELL, Appellees

On Appeal from the 411th District Court
Polk County, Texas
Trial Cause No. CIV32131

MEMORANDUM OPINION

Elloyd Johnson, an inmate confined in the Texas Department of Criminal Justice who is appearing *pro se* and *in forma pauperis*, appealed the trial court's order dismissing Johnson's lawsuit as frivolous. On November 26, 2018, we notified Johnson that an inmate who files a statement of inability to afford payment of court costs must also file a declaration of previous filings that contains the information required by section 14.004 of the Civil Practice and Remedies Code. *See* Tex. Civ.

Prac. & Rem. Code Ann. § 14.004 (West 2017). On January 9, 2019, we notified Johnson that he had failed to comply with previous notices from the Clerk of the Court requiring that he provide a declaration of previous filings, and further notified Johnson that the appeal would be dismissed without further notice unless he provided the information required by the statute. *See id.* Johnson filed a response in which he noted that the information was of questionable importance in his appeal.

An inmate who files an action in an appellate court and declares an inability to pay costs must file a separate affidavit or declaration identifying prior actions filed pro se. *McLean v. Livingston*, 486 S.W.3d 561, 562 (Tex. 2016). An inmate must be afforded an opportunity to amend his appellate filings to cure filing defects under the inmate litigation statute. *Id.* at 565. Johnson failed to comply with the statute after being given an opportunity to cure the defect. Johnson failed to comply with a notice from the Clerk of the Court requiring action within a specified time. *See Tex. R. App. P. 42.3(c)*. Accordingly, the appeal is dismissed.

APPEAL DISMISSED.

LEANNE JOHNSON
Justice

Submitted on February 6, 2019
Opinion Delivered February 7, 2019

Before McKeithen, C.J., Kreger, and Johnson, JJ.