



**In the  
Court of Appeals  
Second Appellate District of Texas  
at Fort Worth**

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No. 02-18-00176-CV

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DAVID DURAN, Appellant

v.

HARDY BURKE, Appellee

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On Appeal from the 211th District Court  
Denton County, Texas  
Trial Court No. 17-7583-211

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Before Kerr, Pittman, and Birdwell, JJ.  
Memorandum Opinion by Justice Kerr

## MEMORANDUM OPINION AND JUDGMENT

Appellant David Duran's brief was originally due on August 20, 2018. Before his brief was due, Duran filed a "Motion to File Appellant[']s Brief o[n] Grounds of Errors," which this court construed as a motion for extension of time to file his brief. We granted Duran's motion and ordered him to file his brief by September 19, 2018.

On September 11, 2018, Duran filed a document that we construed as a brief. This brief lists eight grounds for Duran's appeal without further explanation and lacks, among other things, a statement of facts, argument, and citation to authorities. The next day, we notified Duran of the deficiencies in his brief, specifically listing the ways in which his brief does not comply with the rules of appellate procedure. *See* Tex. R. App. P. 9.4(i), 38.1(a)–(d), (g)–(i), (k). We directed Duran to file an amended, rule-compliant brief by September 24, 2018. *See* Tex. R. App. P. 9, 38; 2nd Tex. App. (Fort Worth) Loc. R. 1. We warned him that his failure to do so could result in a waiver of noncompliant points or our striking his noncompliant brief and dismissing the appeal. *See* Tex. R. App. P. 38.8(a), 38.9(a), 42.3.

In response, Duran filed a "Motion to File Appellant's Brief of Facts," which we construed as his attempt to file a brief. Like Duran's original brief, this brief was also noncompliant. It lists several facts without record references, lacks argument and citation to authorities, and does not satisfy rule 38.1's other formal requirements. *See* Tex. R. App. P. 38.1. Accordingly, we denied Duran's "Motion to File Appellant's Brief of Facts" and ordered him to file a corrected brief by October 11, 2018. We

warned Duran again that his failure to do so could result in a waiver of noncompliant points or our striking his noncompliant briefs and dismissing the appeal. *See* Tex. R. App. P. 38.8(a), 38.9(a), 42.3. We have received no response from Duran.

Because Duran has failed to file an amended, rule-compliant brief even after we have afforded him two opportunities to do so, we strike Duran's noncompliant briefs and dismiss the appeal. *See* Tex. R. App. P. 38.8(a)(1), 38.9(a), 42.3(b)–(c), 43.2(f).

/s/ Elizabeth Kerr  
Elizabeth Kerr  
Justice

Delivered: November 29, 2018