

NO. 07-01-0320-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL D  
AUGUST 6, 2002

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DESA WELLS,

Appellant

v.

BRETON MILL APARTMENTS

Appellee

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FROM THE COUNTY COURT AT LAW NO. 4 OF HARRIS COUNTY;

NO. 749,853; HON. CYNTHIA CROWE, PRESIDING

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Before BOYD, C.J., QUINN and REAVIS, JJ.

Desa Wells (appellant) attempted to perfect an appeal to this Court on June 28, 2001. Her cause was dismissed on August 28, 2001 for failure to pay her filing fee pursuant to Texas Rule of Appellate Procedure 42.3 (c). Appellant filed a motion for rehearing on September 18, 2002, alleging that she was misled by the lower court clerk that the affidavit of indigency filed in the trial court would suffice for appellate purposes. Appellant's motion was granted on September 21, 2001, and the cause was reinstated. The reporter's record and clerk's record were subsequently filed by December 27, 2001,

thereby making appellant's brief due January 28, 2002. Appellant filed a motion for extension of time to file brief on February 4, 2002, alleging that she had not received records needed to prepare the brief. The court granted appellant an additional 30 days to file her brief, making the due date February 27, 2002. Appellant filed a second motion for extension of time to file her brief on March 11, 2002 and was again granted an extension to March 20, 2002, and we admonished her that no further extensions would be granted absent extreme and unusual circumstances.

March 20, 2002 came and went without the filing of appellant's brief. On March 25, 2002, appellant again moved for an extension of the briefing deadline, stating that the court reporter's record was ". . . filled with misquotes and misplaced testimonies." Appellant's Written Notice of Objection to the Court Reporter's Trial Record of Testimonies/Appellant's Motion to Correct the Record also was filed with the court on March 29, 2002, at which time the court requested a response from appellee regarding same. Appellee's response was filed on April 8, 2002, and the cause was abated on April 12, 2002 for the trial court to determine if the reporter's record contained any errors. The trial court conducted a hearing and filed its findings on May 15, 2002. This court issued an order on June 25, 2002 reinstating the cause and denying appellant's Written Notice of Objection to the Court Reporter's Trial Record of Testimonies/Appellant's Motion to Correct the Record. On that same day, appellant was given notice that her motion for extension of time to file appellant's brief was denied . This left appellant's brief due on June 19, 2002. That brief has yet to be received. Moreover, we sent written notice to appellant on July 22, 2002 informing her that the brief was past due. She also was told

that, by August 1, 2002, she needed to explain why her appellate brief had not been filed and that the failure to do so would result in the dismissal of the cause per Texas Rule of Appellate Procedure 38.8. To date, neither a brief nor a response to our July 22nd communication has been received by the court.

Accordingly, we dismiss the appeal for want of prosecution.

Per Curiam

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