

NO. 07-02-0052-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
MAY 28, 2002

BETTY ANN NEWBY,
Appellant

v.

TISDALE SIDING, INC.
Appellee

FROM THE COUNTY COURT OF HUTCHINSON COUNTY;
NO. 5681; HON. JACK WORSHAM, JUDGE

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

Appellant Betty Ann Newby, proceeding *pro se*, filed a notice of appeal from the trial court's judgment dated October 7, 2001. Both the clerk's record and reporter's record have been filed. Appellant's brief was originally due March 4, 2002, which date came and went without a brief or extension being filed. The Court notified appellant on March 14, 2002, that the brief was past due and that failure to reasonably explain the reasons therefor could result in dismissal. On March 15, 2002, a motion for extension of time to file the brief was filed and appellant was granted an extension until March 29, 2002. So too was she

admonished that no further extensions would be granted without extreme and unusual circumstances. The March 29, 2002 deadline passed without appellant filing either a brief or a further motion to extend the deadline. The Court then dismissed the cause for want of prosecution on April 4, 2002. This resulted in the appellant filing a motion for rehearing wherein Newby contended that she was denied notice of the court's intent to dismiss if the brief was not filed. Concluding that such notice was not afforded her, the Court granted the motion for rehearing and reinstated the cause. However, it ordered appellant to file her brief no later than ten days from the order dated May 9, 2002 and notified her that the failure to comply would result in dismissal of the cause. Ten days passed without appellant filing either a brief or a further motion to extend the deadline.

Accordingly, we dismiss the appeal for want of prosecution. See TEX. R. APP. P. 38.8(a)(1) and 42.3(b) and (c).

Per Curiam

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