

NO. 07-03-0246-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
AUGUST 14, 2003

BILLIE F. MCKINNON, APPELLANT

V.

TEXAS REHABILITATION COMMISSION, APPELLEE

FROM THE 72ND DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2002-520,011; HONORABLE J. BLAIR CHERRY, JR., JUDGE

Before JOHNSON, C.J., and REAVIS and CAMPBELL, JJ.

MEMORANDUM OPINION

Billie F. McKinnon, appellant, attempts to appeal the trial court's Order Granting Summary Judgment. For the reasons expressed herein, we dismiss the appeal.

Unless a party is excused from paying such fees, the clerk of the court of appeals must collect any filing fees set by statute or the Supreme Court. Tex. R. App. P. 5 and 12.1(b). The appellate court, on its own initiative after giving ten days notice to all parties,

may dismiss the appeal or affirm the appealed judgment or order. Tex. R. App. P. 42.3. Dismissal may occur if the appeal is subject to dismissal for want of prosecution. Tex. R. App. P. 42.3(b). Dismissal may also occur because the appellant has failed to comply with a requirement of the Rules of Appellate Procedure, a court order, or a notice from the clerk requiring a response or other action within a specified time. Tex. R. App. P. 42.3(c).

By letter dated May 21, 2003, the clerk notified the parties that the Notice of Appeal had been received but that the \$125.00 filing fee in this appeal had not been paid. The clerk also notified the parties that no further action would be taken on the appeal until the fee was paid and that failure to pay the fee might result in dismissal. Neither party responded to this notice and the fee remained unpaid.

No filing fee has been paid to date. No records have been filed in this matter and appellant has not filed a brief. There has been no indication that the parties wish to pursue the appeal. Accordingly, we dismiss the appeal for want of prosecution and failure to comply with a notice from the clerk requiring a response within ten days.

Phil Johnson
Chief Justice