

NO. 07-04-0003-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL B  
FEBRUARY 27, 2004

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BETTY ANN NEWBY, APPELLANT

V.

THE ESTATE OF FREDRICK WINSTON PERRY, DECEASED, APPELLEE

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FROM THE 84TH DISTRICT COURT OF HUTCHINSON COUNTY;

NO. 35,625; HONORABLE JACK YOUNG, JUDGE

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

**MEMORANDUM OPINION**

Appellant Betty Ann Newby, proceeding *pro se*, filed a notice of appeal, received by this court on January 2, 2004, stating that she was appealing an order dated October 2, 2003, dismissing a bill of review with prejudice. The notice indicates that she filed a motion for new trial on October 31, 2003. Ms. Newby did not pay the filing fee of \$125 for the

appeal or submit an affidavit of indigence pursuant to Rule 20.1 of the Rules of Appellate Procedure.

By letter dated January 6, 2004, the clerk of this court notified Ms. Newby that the filing fee had not been paid, and that failure to pay it could result in dismissal. She responded with a motion requesting this court extend the time for her to pay the filing fee to February 3, 2004. The motion did not contain any facts to reasonably explain the need for an extension. TEX. R. APP. P. 10.5(b)(1)(C). Her motion was denied on February 6, 2004, and having received no fee by that date, we directed her by letter to pay the filing fee on or before February 17, 2004. The letter again advised her that failure to pay the filing fee could result in the appeal being dismissed. TEX. R. APP. P. 42.3(c).

Ms. Newby is not excused by statute or the Rules of Appellate Procedure from paying costs. TEX. R. APP. P. 5. Despite more than reasonable opportunities to do so, she has failed to comply with the requirement that she pay the filing fee this court is obligated to collect, and with this court's orders with respect to the filing fee. All parties having had more than ten days' notice that dismissal could result from appellant's continued failure to comply with the rules and this court's orders, the appeal is dismissed. TEX. R. APP. P. 5, 42.3(c).

James T. Campbell  
Justice