

NO. 07-04-0074-CV  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL E  
MARCH 9, 2004

---

IN THE INTEREST OF J.S.B. AND M.C.B., CHILDREN

---

FROM THE 286TH DISTRICT COURT OF HOCKLEY COUNTY;  
NO. 95-03-16,111; HON. HAROLD PHELAN, PRESIDING

---

---

**MEMORANDUM OPINION**

---

Before QUINN and REAVIS, JJ., and BOYD, S.J.<sup>1</sup>

Appellant Phillip Edward Barnes filed a notice of appeal on February 23, 2004. However, he did not pay the \$125 filing fee required from appellants under Texas Rule of Appellate Procedure 5. An affidavit of indigence was filed in the trial court on February 27, 2004, per Texas Rule of Appellate Procedure 20.1, but it was contested. Furthermore, the contest was upheld. By letter from this Court dated February 24, 2004, we informed appellant that “the filing fee in the amount of \$125.00 has not been paid . . . . Failure to pay the filing fee within ten (10) days from the date of this notice may result in a dismissal.” TEX. R. APP. P. 42.3(c); see *Holt v. F. F. Enterprises*, 990 S.W.2d 756 (Tex. App.--Amarillo 1998, pet. ref’d). The deadline lapsed, and the fee was not received.

---

<sup>1</sup>John T. Boyd, Chief Justice (Ret.), Seventh Court of Appeals, sitting by assignment. TEX. GOV'T CODE ANN. §75.002(a)(1) (Vernon Supp. 2004).

Because appellant has failed to pay the requisite filing fee as directed by the court, we dismiss the appeal pursuant to Texas Rule of Appellate Procedure 42.3(c).

Per Curiam