

NO. 07-08-0310-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
OCTOBER 15, 2008

FRANK WALTER STASZEWSKI, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 108TH DISTRICT COURT OF POTTER COUNTY;
NO. 2678-E/53,728-E; HONORABLE ABE LOPEZ, JUDGE

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

MEMORANDUM OPINION

Appellant Frank Walter Staszewski filed a notice of appeal from a default judgment entered against him on April 28, 2008. The clerk's record was filed in this Court on August 21, 2008. No reporter's record was made in this matter.

By letter of September 30, 2008, this Court reminded appellant that his appellate brief was due no later than Monday, September 22 and thus, was past due. The letter notified appellant that his appeal was subject to dismissal for want of prosecution unless his brief was filed, along with a motion for extension of time, by October 10, 2008. See Tex. R. App. P. 38.6.

An appellate court may dismiss an appeal for want of prosecution if an appellant fails to timely file a brief unless the appellant reasonably explains the failure and the appellee is not significantly injured by the failure. Tex. R. App. P. 38.8(a)(1). On its own motion, with ten days' notice to the parties, an appellate court may dismiss a civil appeal for want of prosecution or failure to comply with a notice from the clerk requiring a response or other action within a specified time. Tex. R. App. P. 42.3(b), (c). Here, the record reveals appellant has not filed a brief or a motion for extension by the date specified by the Court, despite notice that his failure to do so would subject the appeal to dismissal. We further find the Court has given the parties the required ten days' notice.

Accordingly, we dismiss appellant's appeal for want of prosecution and failure to comply with a notice from the Court. See Tex. R. App. P. 38.8(a)(1); 42.3(b), (c).

James T. Campbell
Justice