

NO. 07-12-00401-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
OCTOBER 19, 2012

CECIL R. MCDONALD, APPELLANT

v.

RICHARD W. FORCUM, APPELLEE

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

MEMORANDUM OPINION

Appellant, Cecil R. McDonald, filed a notice of appeal that indicated that McDonald “will show: . . . APPEALS FOR FIFTH CIR. CIVIL ACTION No. 09-11056 and U.S.D.C. No. 5:09-cv-226[] was not frivolous.” By letter dated September 14, 2012, McDonald was notified that, among other things, a filing fee of \$175 had not been paid, noting that failure to do so within ten days could result in dismissal pursuant to Texas Rule of Appellate Procedure 42.3(c). No fee having been received within the deadline, by letter dated September 26, McDonald was again advised of the outstanding filing fee and the consequences of failing to pay. He was also specifically notified of the defect and given the opportunity to, in lieu of paying the filing fee, file an affidavit of indigence on or before October 8. See TEX. R. APP. P. 44.3; see also Higgins v. Randall County

Sheriff's Office, 193 S.W.3d 898 (Tex. 2006) (holding that a court of appeals can dismiss an appeal for noncompliance only after allowing a reasonable time to correct a defect). Despite two notices and a reasonable time in which to comply with this Court's request, McDonald has failed to respond. Consequently, this Court is authorized to dismiss this appeal.

Accordingly, the appeal is dismissed.

Mackey K. Hancock
Justice