



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-18-00342-CV

GARRY WAYNE WHITE, APPELLANT

V.

JUDITH THOMAS, ET AL., APPELLEES

On Appeal from the 181st District Court
Potter County, Texas
Trial Court No. 104,913-B, Honorable John B. Board, Presiding

October 15, 2018

MEMORANDUM OPINION

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

Appellant, Garry Wayne White, an inmate proceeding *pro se*, filed a notice of appeal from the trial court's *Order of Dismissal for Want of Prosecution* without paying the requisite filing fee. By letter dated September 26, 2018, this Court advised White that the required filing fee of \$205 did not accompany the filing of his notice. We directed him to pay the filing fee or, in lieu thereof, to comply with chapter 14 of the Texas Civil Practice and Remedies Code by filing a statement of inability to afford payment of court costs, an affidavit relating to previous filings, and a certified copy of his inmate trust account

statement. See TEX. CIV. PRAC. & REM. CODE ANN. §§ 14.002(a), 14.004 (West 2017). We further advised that if he did not comply by October 8, 2018, this appeal was subject to dismissal without further notice.

On October 11, 2018, White filed a declaration of his inability to pay costs. However, to date, he has not filed an affidavit describing his previous filings or a certified copy of his inmate trust account statement. See TEX. CIV. PRAC. & REM. CODE ANN. § 14.004. An inmate who files an affidavit or declaration of inability to pay costs in an appeal or original proceeding must also comply with chapter 14 of the Texas Civil Practice and Remedies Code. See TEX. CIV. PRAC. & REM. CODE ANN. § 14.002(a). An inmate's failure to comply with chapter 14 is grounds for dismissal of the appeal or original proceeding. See *Douglas v. Moffett*, 418 S.W.3d 336, 340 (Tex. App.—Houston [14th Dist.] 2013, no pet.). Because White failed to pay the filing fee or comply with chapter 14 within the time provided by this Court for compliance, we will dismiss his appeal. See TEX. R. APP. P. 42.3(c).

Additionally, White filed his notice of appeal untimely. The trial court signed the order of dismissal on July 11, 2018. As White did not file any post-judgment motions or requests that extended the notice of appeal deadline, his notice of appeal was due within thirty days, by August 10, 2018. See TEX. R. APP. P. 26.1. This deadline could have been extended by fifteen days to August 27, 2018, pursuant to appellate rule 26.3. See TEX. R. APP. P. 26.3, 10.5(b), 4.1(a); see also *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997) (implying a motion for extension when an appellant tenders a notice of appeal with fifteen days after the notice deadline). White filed a notice of appeal on September 17, 2018. See TEX. R. APP. P. 9.2(b) (mailbox rule).

By letter of September 27, 2018, we notified White that his notice of appeal appeared to have been filed untimely and directed him to file a response showing grounds for continuing the appeal or the appeal would be dismissed for want of jurisdiction. See TEX. R. APP. P. 25.1(b), 26.1. Although White filed a response to our letter, he has not demonstrated grounds for continuing the appeal. Because White's notice of appeal was not timely filed, we also dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

Accordingly, the appeal is dismissed. TEX. R. APP. P. 42.3(a), (c).

Per Curiam