



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

No. 07-19-00043-CV

BETHANY RODRIGUEZ, APPELLANT

V.

CINEMARK USA, INC. D/B/A CINEMARK MOVIES 16, APPELLEE

On Appeal from the 72nd District Court
Lubbock County, Texas
Trial Court No. 2017-526,124, Honorable Ruben Gonzales Reyes, Presiding

February 20, 2019

MEMORANDUM OPINION

Before QUINN, CJ., and CAMPBELL and PARKER, JJ.

Appellant, Bethany Rodriguez, attempts to appeal the trial court's order granting summary judgment in favor of appellee, Cinemark USA, Inc. d/b/a Cinemark Movies 16. We dismiss the appeal because Rodriguez failed to pay the filing fee and for want of jurisdiction.

Rodriguez filed a notice of appeal without paying the filing fee. See TEX. R. APP. P. 5, 20.1. By letter of January 17, 2019, we notified Rodriguez that the filing fee had not been paid and that the appeal was subject to dismissal if she failed to pay the fee or

comply with appellate rule 20.1 by January 28. See TEX. R. APP. P. 20.1, 42.3(c). Rodriguez has not paid the filing fee or filed any response to our letter. The Rules of Appellate Procedure require a party who is not excused by law from paying costs to pay the required fees. See TEX. R. APP. P. 5, 20.1. Accordingly, the appeal is dismissed because of Rodriguez's failure to comply with a requirement of the appellate rules. See TEX. R. APP. P. 42.3(c).

Further, now pending before the court is *Appellee's Motion to Dismiss for Lack of Jurisdiction*. In the motion, Cinemark asserts that Rodriguez filed her notice of appeal untimely. The trial court signed the *Order Granting Defendant's Motion for Summary Judgment* on October 15, 2018. A notice of appeal was due within thirty days after the judgment was signed or within ninety days if a motion for new trial or motion to modify the judgment was timely filed. See TEX. R. APP. P. 26.1(a)(1), (a)(2). To be timely, a motion for new trial or motion to modify the judgment was due within thirty days after the judgment was signed, by November 14. See TEX. R. CIV. P. 329b(a), (g); 5 (stating that a trial court may not enlarge the period for taking any action under the rules relating to new trials except as stated in the rules of civil procedure). Rodriguez filed a motion for new trial on November 15. Because the motion for new trial was not timely filed, the motion did not extend the notice of appeal deadline. See TEX. R. APP. P. 26.1(a). Thus, Rodriguez's notice of appeal was due within thirty days after the judgment was signed, by November 14, 2018. She filed her notice of appeal on January 14, 2019.

Cinemark filed the motion to dismiss on February 4, 2019. Rodriguez did not respond to the motion. A timely-filed notice of appeal is required to invoke this court's

appellate jurisdiction. See TEX. R. APP. P. 25.1(b); 26.1. Because Rodriguez's notice of appeal was not timely filed, we grant Cinemark's motion to dismiss the appeal.

Accordingly, the appeal is dismissed because Rodriguez failed to comply with the appellate rules and for want of jurisdiction. See TEX. R. APP. P. 42.3(a), (c).

Per Curiam