



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-18-00081-CV

NATHAN CARUSO AND JENNIFER DONNER, Appellants

V.

NATHANIEL YOUNG, Appellee

On Appeal from the 200th District Court
Travis County, Texas
Trial Court No. D-1-GN-15-000993

Before Morriss, C.J., Moseley and Burgess, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

On September 6, 2018, Nathan Caruso and Jennifer Donner, appellants, filed a notice of appeal in this matter originated in Travis County.¹ The clerk’s record was due to be filed with this Court on or before October 15, 2018.² The clerk’s record has not been filed, and there is no indication that Caruso and/or Donner have paid or made arrangements for payment of the fees associated with its preparation. Further, neither appellant has tendered the mandatory \$205.00 filing fee associated with the appeal.

“A party who is not excused by statute or these rules from paying costs must pay—at the time an item is presented for filing—whatever fees are required by statute or Supreme Court order. The appellate court may enforce this rule by any order that is just.” TEX. R. APP. P. 5. Similarly, unless otherwise excused, an appellant must either pay or make arrangements for the payment of the fees related to preparation of the appellate record to ensure that the record is timely filed. TEX. R. APP. P. 35.3(a)(2), (b)(3), 37.3(b).

By letter dated October 5, 2018, and pursuant to Rule 37.3(b) of the Texas Rules of Appellate Procedure, appellants were provided, through retained counsel James Sullivan, with notice of and an opportunity to cure these defects. *See* TEX. R. APP. P. 37.3(b), 42.3(b), (c). The clerk’s letter further warned appellants that, if they did not submit an adequate response to the

¹Originally appealed to the Third Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. *See* TEX. GOV’T CODE ANN. § 73.001 (West 2013). The October 5, 2018, notice to Sullivan was delivered by the clerk’s office of the third Court of Appeals. This notice further advised that if a reporter’s record was necessary to the appeal and had not already been requested, Sullivan should make a written request to the court reporter and make payment arrangements for the record. *See* TEX. R. APP. P. 34.1, 34.6(b)(1).

²Because this is a summary judgment case, there is no reporter’s record.

notice by October 15, 2018, this appeal would be subject to dismissal for want of prosecution. Appellants have neither paid for nor made appropriate arrangements to pay for the appellate record. We have received no communication from Sullivan responsive to the October 5 correspondence, and we have received neither the required filing fee nor the appellate record. Accordingly, this appeal is ripe for dismissal.

Pursuant to Rules 37.3(b) and 42.3(b) of the Texas Rules of Appellate Procedure, we dismiss this appeal for want of prosecution.

Josh R. Morriss, III
Chief Justice

Date Submitted: November 8, 2018
Date Decided: November 9, 2018