



IN THE
TENTH COURT OF APPEALS

No. 10-07-00158-CV

APPARAJAN GANESAN,

Appellant

v.

BECKY TIBBS, CODY GINSEL, CYNTHIA
WOODS, JASON MANUEL, JOSE GARCIA,

Appellees

From the 12th District Court
Walker County, Texas
Trial Court No. 23300

ORDER

This order is in response to your telephone calls and correspondence after your appeal was dismissed. The letter you have referenced in those calls and correspondence, dated October 15, 2008, was received by the Court on November 6, 2008. The October letter does not have an effect on your dismissal. Your appeal was dismissed because you failed to comply with an order from the Court and from the Clerk. Although the Court does not normally provide this to a party, a history of your non-compliance is detailed below.

In a motion filed by you last year, the Court learned that you were expected to be released from prison on November 12, 2008. The Court decided to abate the appeal until 60 days after your release date, that being, January 12, 2009, so that you had the chance to get organized after your release before continuing with this appeal. The Court told you that unless we were informed of a different release date, we would automatically reinstate the appeal on January 12, 2009. The Court was not informed of a different release date, and the appeal was reinstated.

Pursuant to the abatement order, you were ordered to provide to this Court by February 2, 2009 and serve on all parties to this proceeding notice of your address for receiving notices and service of documents related to this proceeding. The letter dated October 15, 2008 was not considered by the Court as the notice required by the abatement order, primarily because it was received by the Court prior to your release from prison and because the Court was not informed that this address was the address for receiving notice and service of documents related to your appeal. You were also ordered to inform the Court by February 2, 2009 what motions on file needed to be resolved and what other issues needed to be addressed prior to the start of the briefing schedule. You did not comply with the order.

Instead of complying with the abatement order, you filed a "Request to extend time limits." In the request, you gave no reason why you could not provide an address for receiving notices and service of documents. An address was included in the signature block and proof of service of the request, but you did not state that this was the address for receiving notices and service of documents. Further, you did not

reference the letter dated October 15, 2008 or state that the letter would serve as your notice in compliance with the abatement order.

It also appeared from your motion that you could not inform the Court what motions on file needed to be resolved and what other issues needed to be addressed because you had no driver's license and could not go to the law library or meet with counsel. In ruling on your request, the Court noted that, according to the Court's records, you were not represented by counsel in this appeal. Further, the Court found that your other reasons for not complying with the Court's order were unacceptable. Your request was denied.

In that denial, the Court ordered you to do two things. First, you were ordered to:

[o]n or before April 21, 2009, ... provide to this Court and serve on all parties to this proceeding notice of his address for receiving notices and service of documents related to this proceeding. If appellant fails to provide the address as ordered herein, this proceeding may be dismissed without further notice. *See* TEX. R. APP. P. 42.3(c).

Second, you were ordered to

[o]n or before April 21, 2009, ... inform the Court what motions on file need to be resolved and what other issues need to be addressed prior to the start of the briefing schedule. If appellant does not inform the Court as to what motions or issues need to be resolved or addressed, appellant's brief will be due **May 5, 2009**.

You did not fully comply with either of these directives.

Instead, you presented a Motion to Correct the Court Records. In the motion, you complained about missing exhibits, a 2-3 hour break that was not recorded by the court reporter, and the "completely random" manner in which the clerk's record was assembled. You provided no notice of your address for receiving notices and service of

documents related to this proceeding. Again, an address was included in the signature block, but you did not state that this was the address for receiving notices and service of documents. Again, you did not reference the letter dated October 15, 2008 or state that the letter would serve as your notice in compliance with the abatement order. Additionally, you did not inform the Court what motions currently on file needed to be resolved.

You did not comply with the Court's and the Clerk's orders. TEX. R. APP. P. 42.3(c). For these reasons, your appeal was dismissed.

The Court extended to you more opportunities to cure procedural irregularities than it does to most litigants. Your numerous and frequent departures from the rules consumed an excessive amount of the Court's resources. At some point, your failure to comply with the rules and orders of the Court can be construed as a willful departure and an indication that your claim lacks merit. But the Court, nonetheless, continued to try to work with you until you failed to respond as described herein. Your appeal has not been reinstated and the Court has found no reason or basis to do so during its plenary power.

PER CURIAM

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis
Order issued and filed May 27, 2009