



IN THE  
TENTH COURT OF APPEALS

No. 10-10-00021-CV

IN THE ESTATE OF JAMES H. RICE, DECEASED,

From the County Court  
McLennan County, Texas  
Trial Court No. 2003-0437-PR1

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MEMORANDUM OPINION

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In an order dated April 20, 2011, the Court found that this appeal was appropriate for mediation and ordered the parties to mediate this case. The Court's Order provided in part:

Named parties must be present during the entire mediation process, ... .

Failure or refusal to attend the mediation as scheduled may result in the imposition of sanctions, as permitted by law. **If Appellant James Rice, Jr. fails to attend the mediation, this appeal will be dismissed.** See TEX. R. APP. P. 42.3(b), (c). [Emphasis in original.]

The mediation was held at the McLennan County Dispute Resolution Center on June 15, 2011. The Court received a June 22, 2011 letter from the Executive Director of the McLennan County Dispute Resolution Center. That letter states that

the mediation session ended abruptly when Appellant, James H. Rice, Jr. unexpectedly left the premises and did not return, prior to the mediation being terminated, adjourned, or recessed by the DRC's volunteer mediator. As a result, the parties were unable to reach any agreement and the mediator, in the absence of the Appellant, pronounced the mediation terminated with the parties at impasse.

The Court requested, and has received, statements from the parties' counsel about "the circumstances of Appellant's departure from the mediation and why this appeal should not be dismissed for failure to comply with the Court's April 20 Order." James has not justified his departure from the mediation. The only explanation, which the Court finds insufficient, for James's departure is that he "felt it best to put this matter in the hands of the Court." Noah's counsel's statement verifies the Executive Director's description of the events. James's departure violated both the letter and spirit of the Court's order, which explicitly required him "to attend the mediation" and to "be present during the entire mediation process." Accordingly, this appeal is dismissed.

TEX. R. APP. P. 42.3(c).

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
Appeal dismissed  
Opinion delivered and filed August 10, 2011  
[CV06]