



**IN THE  
TENTH COURT OF APPEALS**

**No. 10-10-00046-CV**

**ROY D. MITCHELL,**

**Appellant**

**v.**

**WELLS FARGO BANK,**

**Appellee**

---

**From the County Court at Law  
Ellis County, Texas  
Trial Court No. 07C3984**

---

**MEMORANDUM OPINION**

---

Roy D. Mitchell appealed the trial court's judgment in favor of Wells Fargo Bank in Wells Fargo's action for forcible detainer. This Court affirmed the trial court's judgment on September 3, 2008. Mitchell petitioned the Texas Supreme Court for review which dismissed the petition. This Court's mandate in that appeal then issued on August 18, 2009.

Mitchell has now attempted to appeal further proceedings he initiated in the trial court regarding the same suit by Wells Fargo. In a letter dated February 5, 2010, the Clerk of this Court warned Mitchell that the appeal was subject to dismissal because it

appeared the action of the trial court was not appealable. The Clerk also warned Mitchell that unless a response was filed showing grounds for continuing the appeal, the appeal would be dismissed. Mitchell has not responded to the Clerk's letter.

Accordingly, this appeal is dismissed. TEX. R. APP. P. 42.3.

Further, absent a specific exemption, the Clerk of the Court must collect filing fees at the time a document is presented for filing. TEX. R. APP. P. 12.1(b); Appendix to TEX. R. APP. P., Order Regarding Fees (Amended Aug. 28, 2007, eff. Sept. 1, 2007). *See also* TEX. R. APP. P. 5; 10TH TEX. APP. (WACO) LOC. R. 5; TEX. GOV'T CODE ANN. § 51.207(b); § 51.941(a) (Vernon 2005); and § 51.208 (Vernon Supp. 2009). Under these circumstances, we suspend the rule and order the Clerk to write off all unpaid filing fees in this case. TEX. R. APP. P. 2. The write-off of the fees from the accounts receivable of the Court in no way eliminates or reduces the fees owed by Mitchell.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Reyna, and  
Justice Davis  
Appeal dismissed  
Opinion delivered and filed March 10, 2010  
[CV06]