



IN THE  
TENTH COURT OF APPEALS

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No. 10-10-00364-CV

IN RE CHARLES E. HUTCHINSON

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Original Proceeding

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MEMORANDUM OPINION

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Charles E. Hutchinson, an inmate, asks this Court by mandamus to declare the trial court's order for cost pursuant to Section 14.006 of the Texas Civil Practice and Remedies Code void and to order that any funds withdrawn from his inmate account be returned. There are numerous procedural problems with Hutchinson's petition. Hutchinson did not certify that he reviewed the petition and concluded that every factual statement in the petition is supported by competent evidence included in the appendix or record. TEX. R. APP. P. 52.3(j). He also failed to include an appendix or record of the documents upon which he asserts he is entitled to relief. *Id.* at (k); 52.7. This list of deficiencies is not exclusive. However, we use Rule 2 to look past these and the other deficiencies. TEX. R. APP. P. 2.

It appears from Hutchinson's petition that his underlying civil case is still pending in the trial court. We may not review this interlocutory order by mandamus. *See In re Hearn*, 137 S.W.3d 681, 684 (Tex. App.—San Antonio 2004, orig. proceeding). The appropriate time and manner to review the trial court's order is on appeal after the underlying civil case has been disposed. *See Jon v. Gaston*, No. 10-09-00357-CV, 2010 Tex. App. LEXIS 7609 (Tex. App.—Waco Sept. 15, 2010, no pet. h.) (mem. op.); *In re Hearn*, 137 S.W.3d 681, 684 (Tex. App.—San Antonio 2004, orig. proceeding).

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 the circumstances of this case, 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 Hutchinson.

Hutchinson's petition for writ of mandamus is denied. His motion for leave to file the mandamus is dismissed as moot.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Reyna, and  
Justice Davis

Petition denied

Motion dismissed

Opinion delivered and filed October 20, 2010

[OT06]