



**IN THE  
TENTH COURT OF APPEALS**

**No. 10-10-00382-CV**

**JOE VITTONEL, JR.,**

**Appellant**

**v.**

**BNSF RAILWAY COMPANY,**

**Appellee**

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**From the 21st District Court  
Burleson County, Texas  
Trial Court No. 25,152**

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**MEMORANDUM OPINION**

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Joe Vittonel, Jr. appeals from the trial court's order granting summary judgment in favor of BNSF Railway Company. The clerk's record in this appeal is past due. In a letter dated December 15, 2010, the Clerk of this Court notified Vittonel that the clerk's record had apparently not been filed because he had failed to pay or make arrangements to pay the clerk's fee for the preparation of the clerk's record. In the same letter, the Clerk of this Court warned Vittonel that he must pay or make arrangements to pay the clerk's fee and notify this Court of the actions taken within 21 days after the

date of the letter or the appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 37.3(b). More than 21 days have passed, and we have not been notified whether Vittonel paid or made arrangements to pay the clerk's fee.

Accordingly, this appeal is dismissed. *Id.*

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
Appeal dismissed  
Opinion delivered and filed January 19, 2011  
[CV06]