



WITHDRAWN 2/18/16  
REISSUED 3/10/16

**IN THE  
TENTH COURT OF APPEALS**

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**No. 10-14-00137-CV**

**2008 CHEVROLET CORVETTE, VIN#1G1YY36W585105455,**

**Appellant**

**v.**

**THE STATE OF TEXAS,**

**Appellee**

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**From the 66th District Court  
Hill County, Texas  
Trial Court No. 51,223**

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**MEMORANDUM OPINION**

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James Tyron Riggs, a prison inmate, appeals the forfeiture of his 2008 Chevrolet Corvette by the State. We dismiss the appeal as frivolous.

Chapter 14 requires the inmate to file an affidavit or declaration "relating to previous filings" in which the inmate must detail all previous actions filed pro se, other than a suit under the Family Code. TEX. CIV. PRAC. & REM. CODE ANN. § 14.004(a) (West

2002); *Anderson v. Tex. Dep't of Crim. Justice*, \_\_\_ S.W.3d \_\_\_, 2015 Tex. App. LEXIS 2674 (Tex. App.—Waco Mar. 19, 2015, no pet.). In addition, the inmate is required to file a certified copy of his "inmate trust account statement"<sup>1</sup> that "reflect[s] the balance of the account at the time the claim is filed and activity in the account during the six months preceding the date on which the claim is filed." TEX. CIV. PRAC. & REM. CODE ANN. §§ 14.004(c); 14.006(f) (West 2002); *Anderson*, 2015 Tex. App. LEXIS 2674 at \*5. The filings required under chapter 14 are "an essential part of the process by which courts review inmate litigation." *Hickson v. Moya*, 926 S.W.2d 397, 399 (Tex. App.—Waco 1996, no writ).

The statute provides the notice of what is required by the inmate to file a new action. The failure to file the affidavit with the required information or the inmate account statement can result in dismissal without further notice or hearing. *Anderson*, 2015 Tex. App. LEXIS 2674 at \*5. Further, when an inmate fails to comply with the affidavit requirements, the trial court may assume that the current action is substantially similar to one previously filed by an inmate and thus, is frivolous. *Id*; *Altschul v. TDCJ - Inmate Trust Fund Div.*, 2012 Tex. App. LEXIS 2025, \*3 (Tex. App.—Waco Mar. 14, 2012, pet. denied) (mem. op.). We see no reason why this caselaw interpreting the Chapter 14

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<sup>1</sup> Courts and parties have frequently referred to inmate accounts as inmate "trust" accounts. The term "trust" has been removed from this statutory reference. Act of 1989, 71st Leg., ch. 212, § 2.01, eff. Sept. 1, 1989, amended by Act of 1999, 76th Leg., ch. 62, § 8.10, 19.02(8), eff. Sept. 1, 1999 (current version at TEX. GOV'T CODE ANN. § 501.014 (West 2012)). They are simply inmate accounts. While there may be a custodial relationship between the Department and the inmate as to the money in the account, an issue not decided by us today, there is certainly no trustee/beneficiary relationship wherein the Department is burdened with all the duties of a trustee with regard to the inmate's money.

requirements as they applied to actions filed in trial courts should not also now apply to actions filed in an appellate court. *Douglas v. Turner*, 441 S.W.3d 337, 339 (Tex. App.—Waco 2013, no pet.). See also *Anderson*, 2015 Tex. App. LEXIS 2674 at \*5; *McClure v. Tex. Dep’t of Crim. Justice*, No. 10-12-00481-CV, 2014 Tex. App. LEXIS 2284 (Tex. App.—Waco Feb. 27, 2014, pet. denied) (memo. op.). Further, we have recently confirmed our commitment to the clear wording of the statute by denying motions for rehearing even when the inmate contends the failure to comply with Chapter 14 has been or could be remedied. *McLean v. Livingston*, 456 S.W.3d 358 (Tex. App.—Waco Jan. 22, 2015, pet. filed) (op. on rhg).

By order of the Court issued on November 19, 2015, Riggs was ordered to file an affidavit or declaration of previous filings and a certified copy of his inmate “trust” account within **14 days** from the date of the order. Riggs was warned that the failure to timely file these documents would result in the dismissal of his appeal without further notice and a finding that the appeal is frivolous. *Anderson*, 2015 Tex. App. LEXIS 2674 at \*5. More than 14 days passed before Riggs filed a certified copy of his inmate “trust” account. As of the date of this opinion, Riggs has not complied with the Chapter 14 affidavit or declaration of previous filings requirement. Accordingly, we dismiss this appeal as frivolous.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
(Justice Davis concurs with a note)\*

Appeal dismissed

Opinion delivered and filed January 7, 2016

[CV06]

\*("I question whether Chapter 14 applies to an appeal of a forfeiture judgment, but because Appellant was ordered to comply with Chapter 14 and otherwise failed to do so, I concur in the Court's judgment.")

