

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-08-00184-CV**

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**Thomas Walker Lynch, Appellant**

**v.**

**Hyunhee Choi Lynch, Appellee**

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**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 395TH JUDICIAL DISTRICT  
NO. 06-1054-F395, HONORABLE JON N. WISSER, JUDGE PRESIDING**

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**ORDER**

Appellant Thomas Walker Lynch filed his notice of appeal on March 24, 2008. On August 1, 2008, this Court received notice from the Williamson County district clerk's office that appellant had not paid or made arrangements to pay for the clerk's record. The clerk of this Court sent notice to appellant on August 11, 2008, requesting appellant to advise this Court if he wished to continue his pursuit of the instant appeal. Appellant did not respond; therefore, on September 19, 2008, the clerk of this Court sent notice to appellant that this appeal would be dismissed for want of prosecution if appellant did not submit notice in writing on or before September 30, 2008, stating that he had paid for or made arrangements to pay for the clerk's record.

Although this Court received a response from appellant on November 17, 2008, appellant's response does not comport with this Court's notice requesting appellant to inform the Court about the status of appellant's payment for the clerk's record. Appellant's response does not

state whether he has paid for or made arrangements to pay for the clerk's record. Instead, appellant's response purports to apply for this Court's pro bono pilot program by stating that appellant now qualifies for this program and that appellant may also qualify for indigent status. Appellant, however, did not file an affidavit of indigence, nor did appellant request an extension of time in which to file such an affidavit.

The rules of appellate procedure require appellant to file an affidavit of indigence in the trial court "with or before the notice of appeal." Tex. R. App. P. 20.1(c)(1). Given that appellant's notice of appeal was filed on March 24, 2008, the deadline for filing an affidavit of indigence has long since past. *Id.* 20.1(c)(1) (providing when affidavit should be filed), (3) (allowing for extensions of time, if requested by appellant). However, out of an abundance of caution and pursuant to rule 20.1(c)(3) of the Texas Rules of Appellate Procedure, we hereby order appellant to file an affidavit of indigence in compliance with rule 20.1(b) with the clerk of this Court on or before January 9, 2009. *See id.* 20.1(b), (c)(3). If appellant does not comply with this Court's order, we will dismiss this appeal. *See Tex. R. App. P.* 37.3(b), 42.3(b), (c).

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Jan P. Patterson, Justice

Before Justices Patterson, Waldrop and Henson

Filed: December 10, 2008