

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-09-00023-CV

**Walter Lee Hall, Jr.; KWI Legal Defense Fund; and KWI Communications LLC d/b/a
KWI Holdings, Appellants**

v.

LRT Record Services and Alamo Title Company d/b/a Alamo Title, Appellees

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 53RD JUDICIAL DISTRICT
NO. D-1-GN-07-001548, HONORABLE STEPHEN YELENOSKY, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellants filed their notice of appeal on January 20, 2009. The record was filed on June 11, 2009, making appellants' brief due July 13. On August 14, after no brief was received, we sent appellants notice that their brief was late, requesting a response no later than August 24. On August 25, appellant Hall checked out the record, and on August 26, we received a motion for extension of time, asking for an indefinite extension of time to file appellants' brief. The record was returned on August 28. On September 14, we granted appellants a sixty-day extension, making the brief due September 18. On October 28, having received no response, we sent appellants a second late-brief notice, cautioning that the appeal was subject to dismissal if we did not receive a response by November 9. On November 16, we received a "Notice of Mailing Regarding 'Appellant's Brief,'" in which Hall claims to have mailed the brief on November 9. Although he states that as

of November 16, he had “not received confirmation from the United States Postal Service that this Court has received said Brief,” he has not supplied any tracking number or other means for this Court to verify that the brief was timely mailed as claimed. Further, Hall states that if he does not get confirmation of delivery by the close of business on November 18, he will “personally file in this Court the next day thereafter copies of the APPELLANT’S BRIEF, with formal motion to extend time,” but as of the close of business on November 23, the promised brief was not received. We therefore dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 42.3(b).

David Puryear, Justice

Before Justices Patterson, Puryear and Pemberton

Dismissed for Want of Prosecution

Filed: November 25, 2009