

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-11-00039-CR

Keith William Dutson, Jr., Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF SCHLEICHER COUNTY, 51ST JUDICIAL DISTRICT
NO. 1004, THE HONORABLE BARBARA L. WALTHER, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Keith William Duston, Jr., filed a pro se notice of appeal following his conviction for sexual assault of a child. In connection with that appeal, appellant filed a pro se motion for a free appellate record. After conducting a hearing, the trial court found that appellant was not indigent and denied the motion. Appellant appealed the trial court's ruling. We affirmed the trial court's order denying a free appellate record. *See Dutson v. State*, No. 03-11-00039-CR, 2012 WL 3155732, at *4 (Tex. App.—Austin Aug. 2, 2012, no pet.) (mem. op., not designated for publication). In our opinion, we advised appellant that he had 30 days from the date of the opinion to pay or make satisfactory arrangements to pay the clerk's and reporter's fees in this cause. *Id.*

On October 11, 2012, this Court sent a letter to appellant advising him that the record was overdue and requesting that he make arrangements for the record to be filed with this Court and submit a status report regarding his appeal. We informed appellant that his appeal may be dismissed

for want of prosecution if he did not make arrangements for payment of the record and submit a status report regarding this appeal on or before October 22, 2012. We received a response from appellant's counsel informing the Court that his client had been informed of this Court's opinion affirming the trial court's denial of a free record and had been advised of his obligation to make arrangements to pay for the appellate record. Counsel further indicated that he explained to his client that the appeal would be dismissed for want of prosecution if he did not make arrangements to pay for the appellate record. To date, the record has not been filed and no arrangements for payment of the record have been made.

We dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 37.3(b).

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Pemberton and Henson

Dismissed for Want of Prosecution

Filed: November 29, 2012

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