

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00471-CV

In re John M. Sigman

D. H. a/k/a D. T., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE 345TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-FM-11-000099, HONORABLE SCOTT H. JENKINS, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

This is a contempt proceeding ancillary to the appeal of D. H. a/k/a D. T. The subject of this proceeding is John M. Sigman, appellant's attorney.

Appellant filed her notice of appeal on July 16, 2012, and her brief was due September 25, 2012. On September 28, 2012, we ordered counsel to file appellant's brief no later than October 15, 2012. On October 22, 2012, Mr. Sigman submitted a motion to extend the deadline for filing appellant's brief. Appellant's brief, however, has not been filed.

On October 23, 2012, John M. Sigman was ordered to appear in person before this Court on Wednesday, November 14, 2012, at 9:00 a.m., in the courtroom of this Court, to show cause why he should not be held in contempt and have sanctions imposed for his failure to obey our

September 28, 2012, order. This order provided that Mr. Sigman would be relieved of his obligation to appear before this Court as ordered above if the Clerk of this Court received appellant's brief before November 14, 2012.

The show cause hearing was held in this Court on November 14, 2012, and Sigman appeared as ordered. At the time of the hearing, appellant's brief had not been filed.

After consideration of the record and Sigman's explanation for failure to comply with our previous orders, we specifically find that John M. Sigman is in contempt for violating this Court's order of September 28, 2012, which was sufficiently clear and specific in its requirement that appellant's brief was to be filed by October 15, 2012. *See* Tex. Gov't Code Ann. § 21.002 (West 2004).

John M. Sigman is hereby fined \$100 payable to the Clerk of the Court of Appeals, Third District of Texas, on or before December 14, 2012, by 5:00 p.m. If Sigman fails to pay the \$100 fine by December 14, 2012, he shall be confined in a county jail or other lockup within the State for a sufficient time to discharge the full amount of the fine at the daily rate allowed for prisoners serving misdemeanor services. *See In re Miles*, 55 S.W.3d 203, 204 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). It is ordered that all writs and other process necessary for the enforcement of this judgment be issued.

We further abate this appeal and remand the cause to the district court with instructions to appoint new counsel for appellant by November 21, 2012. The district court shall order the appropriate supplemental clerk's record to be prepared and forwarded to this Court no later than December 5, 2012.

Before Chief Justice Jones, Justices Rose and Goodwin

Abated

Filed: November 14, 2012