

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00472-CV

Shun Chau, Appellant

v.

Peony Asian Cuisine and Enzhen Zhu, Appellees

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 353RD JUDICIAL DISTRICT
NO. D-1-GN-10-001735, HONORABLE AMY CLARK MEACHUM, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Shun Chau filed a notice of appeal in July 2012. Chau's brief was due on October 10, 2012. On October 29, 2012, the Clerk of this Court sent notice to Chau that appellant's brief was overdue. The Clerk requested a response by November 8, 2012, and notified Chau that the appeal would be dismissed for want of prosecution if Chau did not respond to this Court by that date. On November 12, 2012, Chau filed a motion to extend time to file brief. This Court granted the motion to extend in part. The deadline for filing appellant's brief was extended to January 22, 2013. Chau was notified, however, that the Court would dismiss the appeal for failure to prosecute if his brief was not filed on or before that date.

On January 22, 2013, Chau filed a second motion to extend time to file brief. Chau requested an additional 100 days to file his brief. He seeks a further extension based upon his detention for an immigration proceeding. He states that he has been detained since August 15, 2012,

and that he needs more time to adequately prepare his brief. Chau, however, has not provided any authority that would support extending appellate deadlines based upon his detention for an immigration proceeding.

In response to this Court's request, appellees filed a response. They oppose the motion and another extension. They focus on Chau's delays in prosecuting the claims against them, including during the time the case was pending before the trial court. This Court also notified Chau that the appeal would be dismissed for failure to prosecute if he did not file his brief by January 22, 2013. He failed to do so. Accordingly, we deny Chau's motion to extend time to file brief and dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 42.3(b), (c).

Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Goodwin and Field

Dismissed for Want of Prosecution

Filed: March 22, 2013