

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-14-00348-CV

Justin Vacek, Appellant

v.

Paula Vacek, Appellee

**FROM THE DISTRICT COURT OF COMAL COUNTY, 433RD JUDICIAL DISTRICT
NO. C2010-1360D, HONORABLE DIB WALDRIP, JUDGE PRESIDING**

M E M O R A N D U M O P I N I O N

Appellant Justin Vacek filed his notice of appeal on May 30, 2014. That day, we notified Vacek that he was required to make a written request and arrangements to pay for the clerk's record and the reporter's record within ten days from his receipt of our letter. The clerk's record from the trial court was due to be filed in this Court on July 28.

On August 19, this Court notified Vacek that no clerk's record had been filed due to his failure to pay or make arrangements to pay the fee for preparing the clerk's record. The Court's notice requested that Vacek make arrangements for the clerk's record and submit a status report regarding this appeal by August 29. In addition, the notice informed Vacek that his appeal was subject to dismissal if he did not comply with our instructions. To date, Vacek has not filed a status report or otherwise responded to this Court's notice, and the clerk's record has not been filed.

If the trial court's clerk fails to file the clerk's record due to appellant's failure to pay or make arrangements to pay for the clerk's fee for preparing the record, the appellate court may

dismiss the appeal for want of prosecution unless the appellant was entitled to proceed without payment of costs. Tex. R. App. P. 37.3(b). In this case, Vacek has not established that he is entitled to proceed without payment of costs, *see* Tex. R. App. P. 20.1 (providing procedure for establishing indigence on appeal), and he has failed to pay or make arrangements to pay the clerk's fee for preparing the clerk's record. We therefore dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 42.3(b).

David Puryear, Justice

Before Justices Puryear, Pemberton, and Field

Dismissed for Want of Prosecution

Filed: November 21, 2014