

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00417-CV

Michael T. Paul, Appellant

v.

Texas Disbursement Unit, Appellee

**FROM THE COUNTY COURT AT LAW NO. 1 OF COMAL COUNTY
NO. 2015CVA0207, HONORABLE RANDAL C. GRAY, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Michael T. Paul filed suit against appellee Texas Disbursement Unit, seeking to recover funds garnished from his social security benefits for unpaid child support. He filed an affidavit of indigence, and on June 15, 2015, the trial court clerk's office sent him notice that the "Order on your Affidavit of Indigency was denied by the Judge," telling him that to proceed, he would have to pay filing fees and citation and service fees.¹ On June 21, Paul filed a notice of nonsuit, stating he intended to refile in federal court. On June 29, the trial court signed an Order of Non-Suit, stating that Paul's claims were dismissed without prejudice. On July 1, Paul filed a notice of appeal.

On August 4, we sent Paul a letter explaining that his notice of nonsuit vitiated the trial court's preceding interlocutory orders, including any orders related to his assertion of

¹ The clerk's record does not contain any orders related to Paul's assertion of indigence.

indigence, and asking him to explain what he sought to appeal so that we could determine whether we could properly exercise jurisdiction over his complaints. *See Hyundai Motor Co. v. Alvarado*, 892 S.W.2d 853, 854-55 (Tex. 1995) (plaintiff may nonsuit up until all evidence other than rebuttal evidence is introduced, and nonsuit “may have the effect of vitiating earlier interlocutory orders”; decisions on merits, such as summary judgment, are not vitiated); *Legere v. Legere*, No. 03-12-00046-CV, 2013 WL 692450, at *4 (Tex. App.—Austin Feb. 22, 2013, no pet.) (mem. op.) (nonsuit terminated trial court’s temporary orders).

To date, Paul has not responded to our communication. We therefore dismiss the suit for want of prosecution. *See* Tex. R. App. P. 42.3(b), (c).

David Puryear, Justice

Before Justices Puryear, Goodwin, and Bourland

Dismissed for Want of Prosecution

Filed: August 27, 2015