

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00702-CV

Shakeel Mustafa, Appellant

v.

Pakiza Asim, Appellee

**FROM THE COUNTY COURT AT LAW NO. 1 OF WILLIAMSON COUNTY
NO. 11-0061-FC1, THE HONORABLE JOE CARROLL, JUDGE PRESIDING**

MEMORANDUM OPINION

The notice of appeal was filed in this case on October 24, 2017. After some delay in payment for the record, appellant’s brief on appeal was originally due on February 5, 2018. On its own motion, the Court extended that deadline after appellant’s second set of counsel withdrew. On appellant’s third counsel’s motions, the time for filing was extended to June 22, 2018. The last motion was granted by order, and appellant was advised that no further extensions would be granted and that failure to comply might result in dismissal of his appeal. Nevertheless, after appellant’s third counsel withdrew on June 12, 2018, the Court on its own motion extended the deadline for filing appellant’s brief to July 23, 2018. Appellant’s fourth counsel then filed a motion, stating that he was not retained until July 12 and requesting that the Court yet again extend the time for filing appellant’s brief. We granted that motion for extension of time and ordered appellant “to file a brief no later than August 23, 2018—199 days after the original brief due date and 303 days after he filed his notice of appeal.” We also advised

appellant that further changes in counsel would not result in further extensions of time. Our order stated: “Failure to comply with this order *will result* in dismissal of this appeal.” (Emphasis added.)

In spite of this clear directive, appellant’s counsel filed a fifth motion for extension of time the day after the ordered deadline. Appellant’s motion suggests that additional time is necessary because he has motions pending with the Court. As a general rule, pending motions do not excuse timely filing of a brief. Courts often carry motions to be decided with the merits of the case. Under these circumstances, where appellant has twice been ordered to file his brief by a date certain, advised that no further extensions will be granted, and advised that failure to file may—or most recently, “will”—result in dismissal of his appeal, pending motions most certainly do not provide adequate reason for failure to file a brief.¹

Appellant’s brief was originally due 207 days ago. After multiple delays and extensions of time, and more than adequate warning, we deny appellant’s fifth motion for extension of time and dismiss this appeal for want of prosecution. *See* Tex. R. App. P. 42.3(b), (c).

Scott K. Field, Justice

Before Chief Justice Rose, Justices Pemberton and Field

Dismissed for Want of Prosecution

Filed: August 31, 2018

¹ All pending motions have been denied.