

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-18-00652-CV**

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**Alice Lawson, Appellant**

**v.**

**Ernest Boyd Collins and Ella Elizabeth Collins, Appellees**

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**FROM PROBATE COURT NO. 1 OF TRAVIS COUNTY  
NO. C-1-PB-14-002129, HONORABLE STEPHEN ABLES, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

The clerk's record in this appeal was due for filing in this Court on October 4, 2018. The Clerk of this Court subsequently notified the appellant that the clerk's record had not been filed due to her failure to pay or make arrangements to pay the district court clerk's fees for preparing the clerk's record. The notice requested that the appellant make arrangements for the clerk's record and submit a status report regarding this appeal by January 14, 2019. Further, the notice advised the appellant that her failure to comply with this request could result in the dismissal of this appeal for want of prosecution. To date, the clerk's record has not been filed, and appellant's counsel has informed this Court by letter that the appellant no longer wishes to pursue this appeal.

If the trial court clerk fails to file the clerk's record due to the 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, the appellant has not established that she is entitled to proceed without payment of costs. *See id.* R. 20.1 (providing procedure for establishing indigence on appeal). Because the appellant has failed to pay or make arrangements to pay the clerk's fee for preparing the clerk's record, this appeal is dismissed for want of prosecution. *See id.* R. 42.3(b).

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Chari L. Kelly, Justice

Before Chief Justice Rose, Justices Kelly and Smith

Dismissed for Want of Prosecution

Filed: January 18, 2019