TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00396-CR

Alvin Dejuan Melton, Appellant

v.

The State of Texas, Appellee

FROM THE 20TH DISTRICT COURT OF MILAM COUNTY
NO. CR25,897, THE HONORABLE JOHN YOUNGBLOOD, JUDGE PRESIDING

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

The clerk's record in this appeal was due for filing in this Court on July 8, 2019. On July 17, 2019, we notified appellant by letter to his retained attorney that no clerk's record had been filed due to his failure to pay or arrange to pay the trial clerk's fee for preparing the clerk's record. The notice requested that appellant make arrangements for the clerk's record and submit a status report regarding this appeal by July 29, 2019. Further, the notice advised appellant that his failure to comply with this request could result in the dismissal of the appeal for want of prosecution. To date, appellant has not filed a status report or otherwise responded to this Court's notice, and the clerk's record has not been filed. The trial court has notified this Court that appellant has not filed an affidavit of inability to pay costs of this appeal.

If a trial-court clerk fails to file the clerk's record due to an appellant's failure to pay or arrange 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, appellant has not established that he is entitled to proceed without payment of costs. *See* Tex. R. Civ. P. 145. Because appellant has failed to pay or arrange to pay the clerk's fee for preparing the clerk's record, this appeal is dismissed for want of prosecution. *See* Tex. R. App. P. 37.3(b); *Travis v. State*, No. 03-13-00791-CR, 2014 WL 2154094, at *1 (Tex. App.—Austin May 15, 2015, no pet.) (mem. op., not designated for publication).

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Thomas J. Baker, Justice

Before Justices Goodwin, Baker, and Kelly

Dismissed for Want of Prosecution

Filed: September 19, 2019

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