



NUMBER 13-10-00595-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

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RAUL MENDEZ,

Appellant,

v.

ELMITA VELEZ,

Appellee.

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On appeal from the 445th District Court  
of Cameron County, Texas.

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## MEMORANDUM OPINION

Before Justices Benavides, Vela, and Perkes  
Memorandum Opinion Per Curiam

Appellant, Raul Mendez, proceeding pro se, appeals an order of the trial court rendered on September 16, 2010. This cause is before the Court because appellant has failed to timely file his brief and has failed to comply with the appellate rules and directives from this Court. As stated herein, we dismiss the appeal for want of prosecution.

The appellant's brief in the above cause was due on March 31, 2011. On April 28, 2011, the Clerk of the Court notified appellant that the brief had not been timely filed and that the appeal was subject to dismissal for want of prosecution under Texas Rule of Appellate Procedure 38.8(a)(1), unless within ten days from the date of receipt of this letter, appellant reasonably explained the failure and the appellee was not significantly injured by the appellant's failure to timely file a brief. On May 9, 2011, appellant sent a letter to the Court requesting an extension of time to file his brief. On May 11, 2011, the Clerk of the Court advised appellant that his request for an extension was not in the form required by the appellate rules. The Clerk advised appellant to submit a motion and the \$10.00 filing fee within ten days from the date of this notice.

On May 12, 2011, appellee, Elmita Velez, filed an objection to appellant's request for an extension of time to file his brief. According to the objection, Velez would be prejudiced by any extension of time without a meritorious reason by appellant. Velez thus requested that appellant's motion for extension of time be denied.

On May 19, 2011, appellant again sent a letter to the Court requesting an extension of time to file his brief. On June 3, 2011, the Clerk of the Court again advised appellant that his request for an extension failed to comply with the appellate rules. The Clerk advised appellant that his letter was not being considered as a motion because it did not comply with Texas Rule of Appellate Procedure 10.5(b). The Clerk advised appellant to submit a proper motion within ten days from the date of this notice.

On June 10, 2011, appellant filed a letter with the Court which does not address his request for an extension of time, but instead appears to address the merits of the appeal. The letter cannot be considered as an appellate brief because it fails to comply with Texas

Rule of Appellate Procedure 38.1 concerning the substantive requirements for an appellant's brief. Specifically, the letter, accompanied with various attachments, fails to include any indicia of an appellate brief as described by the rules: the document does not state concisely all issues or points presented for review; does not state concisely and without argument the facts pertinent to the issues or points presented as required by Rule 38.1(d); does not contain a clear and concise argument for the contentions made, with appropriate citations to the authorities and to the record; and does not contain an appendix as required by Rule 38.1(j).

Appellant has failed to comply with directives from the Clerk of the Court and has failed to either reasonably explain his failure to file a brief, file a motion for extension of time to file his brief, or file his brief. Accordingly, the appeal is DISMISSED FOR WANT OF PROSECUTION. See TEX. R. APP. P. 38.8(a), 42.3(b).

PER CURIAM

Delivered and filed the  
29th day of August, 2011.