



NUMBER 13-15-00307-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

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ALAN L. HAMILTON, INDIVIDUALLY  
AND AS SUCCESSOR TRUSTEE OF  
THE HAMILTON FAMILY TRUST, AND  
AS INDEPENDENT EXECUTOR OF  
THE ESTATE OF MAURINE P. HAMILTON,

Appellant,

v.

DANIEL DAVILA III,

Appellee.

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On appeal from the 353rd District Court  
of Travis County, Texas.

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Rodriguez and Perkes  
Memorandum Opinion Per Curiam**

Appellant, Alan L. Hamilton, individually and as successor trustee of the Hamilton Family Trust and as independent executor of the estate of Maurine P. Hamilton, filed a pro se notice of appeal regarding a summary judgment rendered in cause number D-1-

GN-13-001230 in the 353rd District Court of Travis County, Texas, in favor of appellee, Daniel Davila III.<sup>1</sup> This matter is before the Court on the appellant's failure to file a brief or reasonably explain his failure to do so.

The appellant's brief in the above cause was originally due on August 6, 2015. Appellant sought and received an extension of time to file the brief until September 10, 2015. Appellant failed to file the brief. On September 28, 2015, this Court notified appellant that the brief had not been timely filed and the appeal was subject to dismissal for want of prosecution unless, within ten days, appellant reasonably explained his failure to file the brief and appellee was not significantly injured by the appellant's failure to timely file a brief. See TEX. R. APP. P. 38.8(a)(1). Appellant responded to this Court's directive on October 7, 2015. Appellant contends that he is unable to file the brief because the clerk's record is defective and this Court has previously denied his motion seeking a corrected clerk's record. Appellant also urges generally that he is in ill health and that this appeal should be considered in coordination with another case, allegedly related to this one, which was not filed with this Court.

The clerk's record in this matter was timely filed and, as previously determined by this Court, was prepared in substantial compliance with the applicable rules. Appellant has failed to reasonably explain his failure to file a brief, file a motion for extension of time to file his brief, or file his brief. Further, appellant neither argues nor addresses whether appellee has been injured by the delay in filing the brief in this matter.

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<sup>1</sup> This case is before the Court on transfer from the Third Court of Appeals in Austin pursuant to a docket equalization order issued by the Supreme Court of Texas. See TEX. GOV'T CODE ANN. § 73.001 (West, Westlaw through 2015 R.S.).

This Court possesses the authority to dismiss an appeal for want of prosecution when an appellant in a civil case fails to timely file its brief and gives no reasonable explanation for such failure. See, e.g., *Jimenez v. Soria*, 224 S.W.3d 722, 722 (Tex. App.—El Paso 2006, no pet.). Accordingly, this appeal is DISMISSED FOR WANT OF PROSECUTION. See TEX. R. APP. P. 38.8(a); *id.* R. 42.3(b).

PER CURIAM

Delivered and filed the  
15th day of October, 2015.