



NUMBER 13-21-00407-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

JOSAPHAT LOZANO,

Appellant,

v.

**RAYMONDVILLE INDEPENDENT
SCHOOL DISTRICT,**

Appellee.

**On appeal from the 197th District Court
of Willacy County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria and Tijerina
Memorandum Opinion by Justice Tijerina**

On November 19, 2021, appellant Josaphat Lozano filed a notice of appeal regarding a final judgment rendered in favor of appellee Raymondville Independent School District following a jury trial on Lozano's claims for age discrimination and retaliation. On November 22, 2021, the Clerk of this Court notified appellant that the notice

of appeal did not comply with Texas Rule of Appellate Procedure 25.1(d)(2), requested correction of the defect within thirty days, and advised appellant that the matter would be referred to the Court for further action if the defect was not remedied. See TEX. R. APP. P. 25.1(d)(2), 37.1. Appellant did not correct the defect.

On February 28, 2022, the Clerk again advised appellant that the notice of appeal was not in compliance with Rule 25.1(d)(2). In response, on March 2, 2022, appellant notified the Court that his appellate attorney had passed away and requested time to “find and finance a new attorney.” Accordingly, we granted appellant’s request and abated the appeal “until June 13, 2022, or until new counsel files an appearance for appellant, whichever comes first.”

On June 15, 2022, the Court reinstated the appeal after failing to receive a notice of appearance of counsel for appellant. The Clerk notified appellant that the appellate timetables had commenced, and the record was due. The Clerk further notified appellant that the notice of appeal still failed to comply with Rule 25.1(d)(2), requested correction of the defect within ten days, and advised appellant that the appeal would be dismissed if the defect was not cured within ten days from the date of this letter. See *id.* R. 25.1(d)(2), 37.1. Appellant did not correct the defect or otherwise respond to the Clerk’s notice.

On August 11, 2022, the Clerk again requested appellant to advise the Court if he had retained counsel and directed him to correct the defect in the notice of appeal and to make arrangements for filing the clerk’s record. The Clerk advised appellant that the appeal would be dismissed if these matters were not addressed and corrected within five days from the date of this letter. See *id.* R. 25.1(d)(2), 37.1. Appellant did not correct the

defect in the notice of appeal, make arrangements for filing the clerk's record, or otherwise respond to the Clerk's directive.

We construe the Texas Rules of Appellate Procedure “reasonably, yet liberally, so that the right to appeal is not lost by imposing requirements [that are] not absolutely necessary to effect the purpose of a rule.” *Chen v. Razberi Techs., Inc.*, 645 S.W.3d 773, 775 (Tex. 2022) (quoting *Verburgt v. Dorner*, 959 S.W.2d 615, 616–17 (Tex. 1997)); *Jardon v. Pfister*, 593 S.W.3d 810, 820 (Tex. App.—El Paso 2019, no pet.). Nevertheless, the Court has the authority to dismiss an appeal for want of prosecution or because the appellant has failed to comply with a requirement of the appellate rules, a court order, or a notice from the clerk requiring a response or other action within a specified time. See TEX. R. APP. P. 42.3(b),(c); *Smith v. DC Civil Constr., LLC*, 521 S.W.3d 75, 76 (Tex. App.—San Antonio 2017, no pet.).

The Court, having examined and fully considered the notice of appeal and subsequent events, is of the opinion that this appeal should be dismissed. Accordingly, we dismiss this appeal for want of prosecution and because the appellant failed to comply with the requirements of the appellate rules and failed to respond to directives from the Clerk requiring a response or other action within a specified time. See TEX. R. APP. P. 42.3(b), (c).

JAIME TIJERINA
Justice

Delivered and filed on the
25th day of August, 2022.