

NO. 12-14-00133-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

ALLEN F. CALTON,
APPELLANT

§ *APPEAL FROM THE 3RD*

V.

§ *JUDICIAL DISTRICT COURT*

LAMORRIS MARSHALL,
APPELLEE

§ *ANDERSON COUNTY, TEXAS*

MEMORANDUM OPINION
PER CURIAM

This pro se in forma pauperis appeal is being dismissed for failure to comply with the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.3(c). The judgment in this case was signed on June 7, 2014. Appellant timely filed a notice of appeal that failed to contain the information required by Texas Rules of Appellate Procedure 9.5 and 25.1(e), i.e., a certificate of service showing service on all parties to the trial court's judgment.

On May 23, 2014, Appellant was notified pursuant to Texas Rule of Appellate Procedure 37.1 that the notice of appeal was defective for failure to comply with Rules 9.5 and 25.1(e). He was further notified that unless he filed an amended notice of appeal on or before June 23, 2014, the appeal would be referred to the court for dismissal. *See* TEX. R. APP. P. 42.3(c).

Additionally, pursuant to rule of appellate procedure 32.1, Appellant's docketing statement was due to have been filed at the time the appeal was perfected, i.e., May 23, 2014. *See* TEX. R. APP. P. 32.1. Because Appellant did not file his docketing statement at that time, this court requested by letter dated May 23, 2014, that he file his docketing statement within ten days if he had not already done so. Appellant did not file the docketing statement as requested.

In a second notice dated June 5, 2014, the court advised Appellant that the docketing statement was past due. The notice further provided that unless the docketing statement was filed on or before June 16, 2014, the appeal would be presented for dismissal in accordance with

Texas Rule of Appellate Procedure 42.3. *See* TEX. R. APP. P. 5, 32.1.

The deadlines in this court's notices have now passed, and Appellant has not complied with the court's requests. Because Appellant has failed, after notice, to comply with rules 9.5, 25.1(e), and 32.1, the appeal is *dismissed*. *See* TEX. R. APP. P. 42.3(c); *Feist v. Berg*, No. 12-04-00004-CV, 2004 WL 252785, at *1 (Tex. App.-Tyler Feb. 11, 2004, pet. denied) (mem. op.); *Feist v. Hubert*, No. 12-03-00442-CV, 2004 WL 252285, at *1 (Tex. App.-Tyler Feb. 11, 2004, pet. denied) (mem. op.).

Opinion delivered June 25, 2014.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JUNE 25, 2014

NO. 12-14-00133-CV

ALLEN F. CALTON,
Appellant
V.
LAMORRIS MARSHALL,
Appellee

Appeal from the 3rd District Court
of Anderson County, Texas (Tr.Ct.No. 3-42122)

THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this court that this appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.