

NO. 12-14-00165-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***RODGER C. FUSSELL,
APPELLANT***

§ ***APPEAL FROM THE 273RD***

V.

§ ***JUDICIAL DISTRICT COURT***

***D.D.B. CHICKEN RANCH, L.L.C.,
APPELLEE***

§ ***SAN AUGUSTINE COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). Appellant perfected his appeal on June 25, 2014. The clerk's record was filed on August 11, 2014, making Appellant's brief due on or before September 10, 2014. At Appellant's request, the time for filing his brief was extended to October 10, 2014.

When Appellant failed to file his brief by the due date, this court notified Appellant on October 13, 2014, that the brief was past due. The notice warned that if no motion for extension of time to file the brief was received by October 23, 2014, the appeal would be dismissed for want of prosecution under Texas Rule of Appellate Procedure 42.3(b). Further, the notice informed Appellant that the motion for extension of time must contain a reasonable explanation for his failure to file the brief and a showing that Appellee had not suffered material injury thereby.

To date, Appellant has neither complied with, nor otherwise responded to, this court's October 13, 2014 notice. Accordingly, we *dismiss* the appeal *for want of prosecution*. *See* TEX. R. APP. P. 38.8(a)(1), 42.3(b).

Opinion delivered October 30, 2014.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

OCTOBER 30, 2014

NO. 12-14-00165-CV

RODGER C. FUSSELL,
Appellant
V.
D.D.B. CHICKEN RANCH, L.L.C.,
Appellee

Appeal from the 273rd District Court
of San Augustine County, Texas (Tr.Ct.No. CV-12-9413-A)

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 for want of prosecution.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of prosecution**; 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.