

NO. 12-17-00040-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***KEVIN WRIGHT,
APPELLANT***

§ ***APPEAL FROM THE 369TH***

V.

§ ***JUDICIAL DISTRICT COURT***

***LORIE DAVIS, TEXAS DEPARTMENT
OF CRIMINAL JUSTICE,
APPELLEES***

§ ***ANDERSON COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Appellant, an inmate acting pro se, appeals from an order dismissing his lawsuit pursuant to Chapter 14 of the Texas Civil Practice and Remedies Code. Because Appellant has not complied, after notice, with either the Texas Rules of Appellate Procedure or the requirements of Chapter 14, we dismiss the appeal.

“A party who is not excused by statute or these rules from paying costs must pay--at the time an item is presented for filing--whatever fees are required by statute or Supreme Court order.” TEX. R. APP. P. 5. If unable to pay the requisite costs, an inmate who files an affidavit or unsworn declaration of inability to pay costs must also file an affidavit or declaration of previous filings that details all previous pro se actions and contains a certified copy of the inmate’s trust account statement. TEX. CIV. PRAC. & REM. CODE. ANN. § 14.004 (West Supp. 2016). An inmate must be afforded an opportunity to cure a Chapter 14 filing defect before dismissal of the appeal. *Ex parte N.C.*, 486 S.W.3d 560 (Tex. 2016); *McLean v. Livingston*, 486 S.W.3d 561, 564 (Tex. 2016).

In this case, on January 31, 2017, the clerk of this Court notified Appellant that the filing fee in this appeal is due. *See* TEX. R. APP. P. 5. Appellant was informed that failure to remit the filing fee on or before February 10, 2017, would result in the Court’s taking appropriate action,

including dismissal of the case without further notice. *See* TEX. R. APP. P. 42.3(c). Also on January 31, in the event of Appellant's inability to pay the filing fee, we notified Appellant that his affidavit of previous filings is due, and that failure to provide a statement of previous filings by February 10, 2017 would result in the appeal being referred to the Court for dismissal without further notice.

To date, Appellant has not paid the filing fee or filed an affidavit of previous filings and a copy of his inmate trust account statement. Nor has Appellant otherwise responded to this Court's notices. Because, after notice and an opportunity to cure, Appellant has neither paid the filing fee nor complied with Chapter 14, the appeal is *dismissed*. *See* TEX. R. APP. P. 42.3(c); *see also Ex parte Alvarado*, No. 13-16-00514-CV, 2016 WL 6520179 (Tex. App.—Corpus Christi Nov. 3, 2016, no pet.) (mem. op.).

Opinion delivered February 22, 2017.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

FEBRUARY 22, 2017

NO. 12-17-00040-CV

KEVIN WRIGHT,

Appellant

V.

LORIE DAVIS, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,

Appellees

Appeal from the 369th District Court
of Anderson County, Texas (Tr.Ct.No. DCCV16-556-369)

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., Hoyle, J. and Neeley, J.