

NO. 12-17-00256-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***JOHNNY KIMBROUGH,
APPELLANT***

§ ***APPEAL FROM THE 3RD***

V.

§ ***JUDICIAL DISTRICT COURT***

***BILLY RAY FULLER AND
CHRISTIAN LIFE CENTER CHURCH,
APPELLEES***

§ ***HENDERSON COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). Appellant, Johnny Kimbrough, perfected his appeal on August 18, 2017. The clerk's record was filed on October 17 and Kimbrough's brief was due on or before November 16. On November 17, this Court notified Kimbrough that his brief was past due. We further notified Kimbrough that the appeal may be dismissed for want of prosecution unless a motion for extension of time, containing a reasonable explanation for the failure to file a brief and showing that Appellees have not suffered material injury thereby, is filed no later than November 27. On November 29, we notified Kimbrough that if no brief, along with a motion in compliance with rule of appellate procedure 38.6(d), was received on or before December 6, the appeal would be presented to the court for dismissal. On December 6, Kimbrough filed a motion for extension of time to file a brief, which we granted to January 2, 2018. On January 3, after Kimbrough failed to file a brief, we notified Kimbrough that if no brief, accompanied by a proper motion for leave to file late brief or a proper motion for extension of time, is received by this Court on or before January 15, the case would be presented to the court for dismissal.

The January 15 deadline has passed and Kimbrough has not filed a brief, a motion for leave to file a late brief, or a motion for extension of time. Accordingly, we *dismiss* the appeal for *want of prosecution*. See TEX. R. APP. P. 38.8(a)(1), 42.3(b).

Opinion delivered January 18, 2018.

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

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JANUARY 18, 2018

NO. 12-17-00256-CV

JOHNNY KIMBROUGH,

Appellant

V.

BILLY RAY FULLER AND CHRISTIAN LIFE CENTER CHURCH,

Appellees

Appeal from the 3rd District Court
of Henderson County, Texas (Tr.Ct.No. CV16-0349-3)

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 the 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., Hoyle, J. and Neeley, J.