

NO. 12-18-00003-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

MICHAEL A. KENNEDY,
APPELLANT

§ ***APPEAL FROM THE 3RD***

V.

§ ***JUDICIAL DISTRICT COURT***

JAMES T. WORTHEN,
APPELLEE

§ ***ANDERSON COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

Appellant, Michael A. Kennedy, has filed a notice of appeal “for dismissal of lawsuit” regarding a civil proceeding, cause number DCCV17-578-3, in Anderson County. Because Appellant has not complied, after notice, with either the Texas Rules of Appellate Procedure or the requirements of Chapter 14 of the civil practice and remedies code, 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 filing fee, an inmate must 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 2017).

On January 11, 2018, 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 January 22, 2018, 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).

The date for remitting the filing fee has passed, and Appellant has not paid the filing fee or submitted a declaration of inability to pay costs, an inmate trust account statement, or an affidavit regarding previous filings. *See* TEX. R. APP. P. 20.1, *see also* TEX. CIV. PRAC. & REM.

CODE ANN. §§ 14.002(a), 14.004 (West 2017); *In re Benjamin*, No. 09-17-00396-CV, 2017 WL 4974632, at *1, n.1 (Tex. App.—Beaumont Nov. 2, 2017, orig. proceeding) (mem. op.). Nor has Appellant otherwise responded to this Court’s notice. 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 January 24, 2018.

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

Worthen, C.J., not participating.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JANUARY 24, 2018

NO. 12-18-00003-CV

MICHAEL A. KENNEDY,
Appellant
V.
JAMES T. WORTHEN,
Appellee

Appeal from the 3rd District Court
of Anderson County, Texas (Tr.Ct.No. DCCV17-578-3)

THIS CAUSE came on to be heard on the appellate record, and the same being considered, it is hereby ORDERED, ADJUDGED and DECREED by this Court that the appeal be **dismissed**, and that the decision be certified to the court below for observance.

By *per curiam* opinion.
Panel consisted of Hoyle, J. and Neeley, J.
Worthen, C.J., not participating.