

NO. 12-19-00386-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***BRIAN A. SMALE,
APPELLANT***

§ ***APPEAL FROM THE 402ND***

V.

***GLEN THURMAN, A/K/A GLEN
THURMAN BUILDER, INC., A/K/A
ROSE HILL SPRINGS
DEVELOPMENT, LLC AND WOOD
COUNTY COMMISSIONER'S COURT,
APPELLEES***

§ ***JUDICIAL DISTRICT COURT***

§ ***WOOD COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for failure to comply with the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 42.3(c).

On November 21, 2019, the Clerk of this Court notified Appellant, Brian A. Smale, that his notice of appeal failed to contain the information specifically required by Texas Rule of Appellate Procedure 9.5 and Section 51.017(a) of the Texas Civil Practice and Remedies Code. *See* TEX. R. APP. P. 9.5 (service); *see also* TEX. CIV. PRAC. & REM. CODE ANN. § 51.017(a) (West Supp. 2019) (notice of appeal must be served on each court reporter responsible for preparing reporter's record). The notice warned that, unless Appellant filed a proper notice of appeal on or before December 23, the appeal would be referred to the Court for dismissal. This deadline passed and Appellant has not filed a compliant notice of appeal or otherwise responded to this Court's November 21 notice.

Because Appellant failed, after notice, to comply with Rule 9.5 and Section 51.017(a), the appeal is *dismissed*.¹ See TEX. R. APP. P. 42.3(c) (on its own initiative after giving ten days' notice to all parties, appellate court may dismiss appeal if appeal is subject to dismissal because appellant failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time).

Opinion delivered December 31, 2019.

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

(PUBLISH)

¹ We note that Appellant currently has a petition for writ of mandamus pending before this Court.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

DECEMBER 31, 2019

NO. 12-19-00386-CV

BRIAN A. SMALE,

Appellant

V.

**GLEN THURMAN, A/K/A GLEN THURMAN BUILDER, INC., A/K/A ROSE HILL
SPRINGS DEVELOPMENT, LLC AND WOOD COUNTY COMMISSIONER'S COURT,**

Appellees

Appeal from the 402nd District Court
of Wood County, Texas (Tr.Ct.No. 2019-483A)

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.