

NO. 12-19-00359-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***PHILIP J. EMERSON, JR.,
APPELLANT***

§ ***APPEAL FROM THE 402ND***

V.

§ ***JUDICIAL DISTRICT COURT***

***JERRY E. PARKER,
APPELLEE***

§ ***WOOD COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

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

A party who is not excused by statute or the appellate rules from paying costs must pay-- at the time an item is presented for filing--whatever fees are required by statute or Texas Supreme Court order. TEX. R. APP. P. 5. An appellate court may enforce Rule 5 by any order that is just. *Id.* After giving ten days' notice, an appellate court may dismiss when the appellant fails to comply with a requirement of the appellate rules, a court order, or a notice from the clerk requiring a response or other action within a specified time. TEX. R. APP. P. 42.3(c).

On November 14, 2019, Appellant, Philip J. Emerson, Jr. filed a statement of inability to afford costs, to which the Wood County District Clerk filed a contest. On March 12, 2020, the Honorable Lauren Parish, Senior Judge of the 115th District Court in Upshur County, signed an order concluding that Emerson has the ability to afford payment of court costs. Emerson filed a motion with this Court, in which he challenged Judge Parish's order.

On April 8, this Court issued an order denying Emerson's request to proceed without costs and we ordered that Emerson pay the filing fee on or before April 15. The order warned that failure to remit the filing fee on or before April 15 would result in the Court taking appropriate action,

including dismissal of the appeal without further notice. The April 15 deadline expired, and Emerson has not paid the required filing fee.

Because Emerson failed, after notice, to comply with Rule 5 and an order of this Court, the appeal is *dismissed*. See TEX. R. APP. P. 42.3(c).

Opinion delivered April 22, 2020.

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



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

APRIL 22, 2020

NO. 12-19-00359-CV

PHILIP J. EMERSON, JR.,

Appellant

V.

JERRY E. PARKER,

Appellee

Appeal from the 402nd District Court
of Wood County, Texas (Tr.Ct.No. 2019-327)

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.