

NO. 12-20-00022-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

**TERESA GRAHAM,
APPELLANT**

§ **APPEAL FROM THE 173RD**

V.

**DITECH FINANCIAL, LLC., AURORA
CAMPOS, JONATHAN HARRISON,
MARKCOS PINEDA, RAMIRO
CUEVAS, PATRICK ZWIERS,
KRISTOPHER HOLUB, RANDY
DANIEL, JIM O'BRYANT, SHARON
ST. PIERRE, CINDY DANIEL,
ROBERT LAMONT, SHERYL
LAMONT, HARRIETT FLETCHER,
DAVID SIMS AND SHAWN
SCHILLER,
APPELLEES**

§ **JUDICIAL DISTRICT COURT**

§ **HENDERSON 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).

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 an appeal because the appellant failed 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 January 24, 2020, the Clerk of this Court notified Appellant, Teresa Graham, 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 3 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 passed, and Appellant has not paid the fee or otherwise shown that she is excused from paying the fee.¹

Because Appellant failed, after notice, to comply with Rule 5, the appeal is *dismissed*.² *See* TEX. R. APP. P. 42.3(c).

Opinion delivered February 5, 2020.

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

(PUBLISH)

¹ The case information sheet provided by the Henderson County District Clerk's Office reflects that Appellant has not been declared indigent.

² We also note that the trial court signed its judgment on October 15, 2019 and Appellant filed her notice of appeal on January 21, 2020. The case information sheet does not show that Appellant filed a motion for new trial, motion to modify, motion to reinstate, or request for findings of fact and conclusions of law. Accordingly, it appears that Appellant's appeal is untimely. *See* TEX. R. APP. P. 26.1(a), 26.3 (motion for extension of time). This Court is not authorized to extend the time for perfecting an appeal except as provided by Texas Rules of Appellate Procedure 26.1 and 26.3.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

FEBRUARY 5, 2020

NO. 12-20-00022-CV

TERESA GRAHAM,

Appellant

V.

**DITECH FINANCIAL, LLC., AURORA CAMPOS, JONATHAN HARRISON,
MARKCOS PINEDA, RAMIRO CUEVAS, PATRICK ZWIERS, KRISTOPHER
HOLUB, RANDY DANIEL, JIM O'BRYANT, SHARON ST. PIERRE, CINDY DANIEL,
ROBERT LAMONT, SHERYL LAMONT, HARRIETT FLETCHER, DAVID SIMS AND
SHAWN SCHILLER,**

Appellees

Appeal from the 173rd District Court
of Henderson County, Texas (Tr.Ct.No. CV17-0420-173)

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.