

NO. 12-20-00039-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

**JC PROJECT MANAGEMENT
SERVICES, INC. AND JACK
CARPENTER,
APPELLANTS**

§ **APPEAL FROM THE 258TH**

§ **JUDICIAL DISTRICT COURT**

V.

**TRAVIS KITCHENS,
APPELLEE**

§ **TRINITY 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 February 7, 2020, the Clerk of this Court notified Appellants that the filing fee in this appeal is due. *See* TEX. R. APP. P. 5. Appellants were informed that failure to remit the filing fee on or before February 18 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 Appellants have not paid the fee or otherwise shown that they are excused from paying the fee.¹

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

Opinion delivered February 28, 2020.

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

¹ The case information sheet provided by the Trinity County District Clerk's Office does not reflect that the trial court made any indigency findings.

² We also note that the notice of appeal fails to comply with Texas Rule of Appellate Procedure 9.5(e) and Section 51.017(a) of the civil practice and remedies code. *See* TEX. R. APP. P. 9.5(e) (certificate of service); *see also* TEX. CIV. PRAC. & REM CODE 51.017(a) (West Supp. 2019) (notice of appeal, including interlocutory appeal, must be served on each court reporter responsible for preparing reporter's record).



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

FEBRUARY 28, 2020

NO. 12-20-00039-CV

JC PROJECT MANAGEMENT SERVICES, INC.
AND JACK CARPENTER,
Appellants
V.
TRAVIS KITCHENS,
Appellee

Appeal from the 258th District Court
of Trinity County, Texas (Tr.Ct.No. 22003)

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.