

**NO. 12-20-00049-CV**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***DAVID ALLEN RUSSELL,***  
***APPELLANT***

§ ***APPEAL FROM THE 87TH***

***V.***

§ ***JUDICIAL DISTRICT COURT***

***KIMBERLY PLENTL,***  
***APPELLEE***

§ ***ANDERSON COUNTY, TEXAS***

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***MEMORANDUM OPINION***  
***PER CURIAM***

David Allen Russell, acting pro se, filed a notice of appeal to challenge an order of dismissal signed on January 14, 2020. On February 18, the Clerk of this Court notified Russell 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); *Muhammed v. Plains Pipeline, L.P.*, No. 12-16-00189-CV, 2017 WL 2665180, at \*2 n.3 (Tex. App.—Tyler June 21, 2017, no pet.) (mem. op.) (pro se litigants are held to same standards as licensed attorneys and must comply with all applicable rules of procedure; otherwise, pro se litigants would benefit from an unfair advantage over parties represented by counsel). The notice warned that, unless Russell filed a proper notice of appeal on or before March 19, the appeal would be referred to the Court for dismissal. This deadline expired without a compliant notice of appeal or other response to this Court's February 18 notice.

Because, after notice and an opportunity to cure, Russell failed to comply with Rule 9.5 and Section 51.017, the appeal is *dismissed*.<sup>1</sup> 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 March 25, 2020.

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

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<sup>1</sup> We also note that the case information sheet from the Anderson County District Clerk indicates that Russell was declared indigent in the trial court. Russell filed an affidavit of indigency with this Court, but did not file a statement of previous filings, and a current, certified copy of his inmate trust account statement as requested by the Clerk of this Court.



**COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT OF TEXAS**

**JUDGMENT**

**MARCH 25, 2020**

**NO. 12-20-00049-CV**

**DAVID ALLEN RUSSELL,**

Appellant

V.

**KIMBERLY PLENTL,**

Appellee

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Appeal from the 87th District Court  
of Anderson County, Texas (Tr.Ct.No. DCCV19-1102-87)

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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.*