

NO. 12-21-00092-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***TONY CHAVEZ,
APPELLANT***

§ *APPEAL FROM THE 87TH*

V.

§ *JUDICIAL DISTRICT COURT*

***LISA GARRETT,
APPELLEE***

§ *ANDERSON 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. Tony Chavez, acting pro se, appeals from a judgment granting Lisa Garrett’s plea to the jurisdiction and dismissing Appellant’s lawsuit.¹ Pursuant to Rule 32.1, Appellant’s docketing statement was due to have been filed at the time the appeal was perfected, i.e., June 19, 2021. On June 21, this Court requested that Appellant file a docketing statement within ten days if he had not already done so. Appellant did not file the docketing statement as requested.

On July 20, the Clerk of this Court issued a second notice advising Appellant that the docketing statement was past due. The notice further provided that unless the docketing statement was filed on or before July 30, the appeal would be presented for dismissal in accordance with Texas Rule of Appellate Procedure 42.3. The date for filing the docketing statement has passed, and Appellant has not complied with the Court’s request.

¹ The judgment was signed April 15, 2021, and Chavez filed his notice of appeal on June 19; thus, it was untimely and filed outside the time for implying an extension. *See* TEX. R. APP. P. 26.1, 26.3; *Verburgt v. Dornier*, 959 S.W.2d 615 (Tex. 1997). But Chavez did file a response to the plea to the jurisdiction after the trial court’s ruling. Because this motion could be construed as a motion for new trial, we decline to dismiss for want of jurisdiction at this time.

Because Appellant failed, after notice, to comply with Rule 32.1, the appeal is *dismissed*. See TEX. R. APP. P. 42.3(c) (after giving ten days' notice, appellate court may dismiss appeal because 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). All pending motions are *overruled as moot*.

Opinion delivered August 18, 2021.

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



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

AUGUST 18, 2021

NO. 12-21-00092-CV

TONY CHAVEZ,
Appellant
V.
LISA GARRETT,
Appellee

Appeal from the 87th District Court
of Anderson County, Texas (Tr.Ct.No. DCCV201662-87)

THIS CAUSE came on to be heard on the appellate record, and the same being considered, it is the opinion of this Court that the 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.