

NO. 12-21-00146-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

RICHARD KIRBY AND JULIE KIRBY, § ***APPEAL FROM THE***
APPELLANTS

V. § ***COUNTY COURT AT LAW***

BENNY FLETCHER,
APPELLEE § ***SMITH 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).

Appellants, Richard Kirby and Julie Kirby, filed a pro se notice of appeal on August 30, 2021. That same day, the Clerk of this Court notified Appellant that the notice of appeal failed to contain the information specifically required by Texas Rule of Appellate Procedure 25.1(d) and Section 51.017(a) of the Texas Civil Practice and Remedies Code. *See* TEX. R. APP. P. 25.1(d) (contents of notice); *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). The notice warned that, unless Appellant filed a proper notice of appeal on or before September 9, the appeal would be referred to the Court for dismissal. Appellants did not file a compliant notice of appeal or otherwise respond to this Court’s notice.¹

Because Appellants failed, after notice, to comply with Rule 21.5(d) and Section 51.017(a), the appeal is *dismissed*. *See* TEX. R. APP. P. 42.3(c) (on its own initiative after giving

¹ Pro se litigants are held to the 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. *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.).

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). All pending motions are *overruled as moot*.

Opinion delivered September 22, 2021.

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



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 22, 2021

NO. 12-21-00146-CV

RICHARD KIRBY AND JULIE KIRBY,

Appellants

V.

BENNY FLETCHER,

Appellee

Appeal from the County Court at Law
of Smith County, Texas (Tr.Ct.No. 73211)

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 the 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.