

**NO. 12-22-00031-CV**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***BRIAN A. SMALE,  
APPELLANT***

**§ *APPEAL FROM THE 402ND***

***V.***

***GLEN THURMAN A/K/A GLEN  
THURMAN BUILDER, INC., A/K/A  
ROSE HILL SPRINGS  
DEVELOPMENT, LLC AND WOOD  
COUNTY COMMISSIONER'S COURT,  
APPELLEES***

**§ *JUDICIAL DISTRICT COURT***

**§ *WOOD COUNTY, TEXAS***

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***MEMORANDUM OPINION  
PER CURIAM***

This appeal is being dismissed for want of prosecution. *See* TEX. R. APP. P. 42.3(b). Appellant, Brian A. Smale, perfected his appeal on February 14, 2022. On March 28, this Court notified Smale that the reporter's record was due and that the court reporter notified this Court that the reason for the delay in filing the record is due to non-payment of the required preparation fee. The notice further stated that the appeal would be submitted on the clerk's record alone unless proof of full payment to the reporter was received by this Court no later than April 7. Smale did not respond to this Court's notice and, on April 18, we ordered that the case would be submitted on the clerk's record alone.

On April 22, the trial court clerk notified this Court that no payment arrangements had been made for the clerk's record. On April 26, we notified Smale that the clerk's record was due and the clerk notified this Court that the reason for the delay in filing the record is due to non-payment of the required preparation fee. We further notified Smale that the appeal would be presented to the Court for dismissal unless proof of full payment to the clerk was provided no later than May 6.

This deadline has now passed and Smale has not established indigence, paid, or made arrangements to pay, the fee for preparation of the clerk's record.<sup>1</sup> See TEX. R. APP. P. 20.1, 35.3(a)(2), 37.3(b). Nor has Smale otherwise responded to this Court's notices. Accordingly, we *dismiss* the appeal for *want of prosecution*. See TEX. R. APP. P. 38.8(a)(1), 42.3(c).

Opinion delivered May 18, 2022.

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

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<sup>1</sup> Smale is acting pro se; however, even a pro se litigant is held to the same standards as licensed attorneys and must comply with all applicable rules of procedure. See *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.).



**COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT OF TEXAS**

**JUDGMENT**

**MAY 18, 2022**

**NO. 12-22-00031-CV**

**BRIAN A. SMALE,**

Appellant

V.

**GLEN THURMAN A/K/A GLEN THURMAN BUILDER, INC.,**

**A/K/A ROSE HILL SPRINGS DEVELOPMENT, LLC**

**AND WOOD COUNTY COMMISSIONER'S COURT,**

Appellees

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Appeal from the 402nd District Court  
of Wood County, Texas (Tr.Ct.No. 2019-483)

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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 for want of prosecution.

It is therefore ORDERED, ADJUDGED and DECREED by this Court that the appeal be, and the same is, hereby **dismissed for want of prosecution**; 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.*