

NO. 12-22-00196-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***ELIJAH JOHNSON, JR.,
APPELLANT***

§ *APPEAL FROM THE 145TH*

V.

§ *JUDICIAL DISTRICT COURT*

***AVEANNA HEALTHCARE, LLC
AND ANGELA MICKENS, LVN,
APPELLEES***

§ *NACOGDOCHES 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.

Elijah Johnson, Jr., acting pro se, filed a notice of appeal on July 8, 2022. Pursuant to Rule 32.1, his docketing statement was due to have been filed at the time appeal was perfected.¹ *See* TEX. R. APP. P. 32.1. On July 13, this Court requested that Appellant file a docketing statement within ten days if he had not already done so. Appellant did not file a docketing statement as requested. On August 2, the Clerk of this Court issued a notice advising Appellant that his docketing statement was past due. The notice provided that unless the docketing statement was filed on or before August 12, the appeal would be presented for dismissal in accordance with Texas Rule of Appellate Procedure 42.3. Appellant did not file the docketing statement as requested.

Additionally, the Clerk of this Court notified Appellant on July 13 that his notice of appeal failed to contain the information specifically required by Texas Rule of Appellate

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.).

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). The notice warned that, unless Appellant filed a proper notice of appeal on or before August 12, the appeal would be referred to the Court for dismissal. Appellant did not file a compliant notice of appeal or otherwise respond to this Court’s notice.

Because Appellant failed, after notice, to comply with Rules 9.5 and 32.1 and Section 51.017(a), the appeal is *dismissed*. *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 August 24, 2022.

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



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

AUGUST 24, 2022

NO. 12-22-00196-CV

ELIJAH JOHNSON, JR.,

Appellant

V.

AVEANNA HEALTHCARE, LLC

AND ANGELA MICKENS, LVN,

Appellees

Appeal from the 145th District Court
of Nacogdoches County, Texas (Tr.Ct.No. C-2136524)

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.