

NO. 12-22-00199-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

**MARY J. SMITH,
APPELLANT**

§ **APPEAL FROM THE 349TH**

V.

§ **JUDICIAL DISTRICT COURT**

**EDWARD COHN,
APPELLEE**

§ **HOUSTON 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).

A party who is not excused by statute or the appellate rules from paying costs must pay-- at the time an item is presented for filing--whatever fees are required by statute or Texas Supreme Court order. TEX. R. APP. P. 5. An appellate court may enforce Rule 5 by any order that is just. *Id.* After giving ten days' notice, an appellate court may dismiss an appeal because the 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. TEX. R. APP. P. 42.3(c).

On July 18, 2022, the Clerk of this Court notified Appellant, Mary J. Smith, that the filing fee in this appeal is due. Appellant was informed that failure to remit the filing fee on or before July 28, would result in the Court's taking appropriate action, including dismissal of the case without further notice. *See* TEX. R. APP. P. 42.3(c). The date for remitting the filing fee

passed, and Appellant has not responded to this Court's notice, paid the filing fee, or otherwise shown that she is excused from paying the fee.¹

Because Appellant failed, after notice, to comply with Rule 5, the appeal is *dismissed*.²
See TEX. R. APP. P. 42.3(c).

Opinion delivered August 10, 2022.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

¹ The case information sheet from the Houston County District Clerk's Office reflects that Appellant has not been declared indigent.

² We also note that Appellant's pro se notice of appeal fails 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).



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

AUGUST 10, 2022

NO. 12-22-00199-CV

MARY J. SMITH,
Appellant
V.
EDWARD COHN,
Appellee

Appeal from the 349th District Court
of Houston County, Texas (Tr.Ct.No. 21-0158)

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.