

NO. 12-22-00284-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***APPROXIMATELY FOUR
THOUSAND ONE HUNDRED SIXTY-
FOUR DOLLARS (\$4,164.00) IN U.S.
CURRENCY,
APPELLANT***

§ *APPEAL FROM THE 114TH*

§ *JUDICIAL DISTRICT COURT*

V.

***THE STATE OF TEXAS,
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).

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 October 25, 2022, the Clerk of this Court notified Appellant, Juan Carlos Luna-Tavares, that the filing fee in this appeal is due. Appellant was informed that failure to remit the filing fee on or before November 4, 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 he 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 November 17, 2022.

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

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

² We also note that Appellant's notice of appeal fails to comply with appellate Rule 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

NOVEMBER 17, 2022

NO. 12-22-00284-CV

**APPROXIMATELY FOUR THOUSAND ONE HUNDRED
SIXTY-FOUR DOLLARS (\$4,164.00) IN U.S. CURRENCY,**

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 114th District Court
of Smith County, Texas (Tr.Ct.No. 21-1329-B)

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

