

COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI–EDINBURG

Estate of Claire Essing v. the State of Texas

No. 13-26-00197-CV (Tex. App.—Corpus Christi–Edinburg June 18, 2026) · No. 13-26-00197-CV · Decided
June 18, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas dismissed an appeal from a Nueces County probate proceeding for want of prosecution. The appellant failed to pay or arrange payment for the clerk’s record, did not establish entitlement to proceed without payment of costs, and did not respond to the Clerk’s notices.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Justice Clarissa Silva; Chief Justice Tijerina; Justice Silva; Justice Cron
JURISDICTION	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
DECIDED	June 18, 2026
DOCKET	13-26-00197-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant filed a notice of appeal from an order of the County Court at Law No. 3 of Nueces County. The court of appeals dismissed the appeal for want of prosecution after appellant failed to pay or arrange payment for the clerk's record and failed to respond to the clerk's notices.
PRECEDENTIAL VALUE	published
PARTIES	Lena Essing Comstock v. Estate of Claire Essing, Deceased, the State of Texas

TOPICS

- appellate procedure
- probate procedure
- costs
- civil procedure

PRACTICE AREAS

appellate procedure

probate

civil procedure

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed for want of prosecution because appellant failed to pay or arrange payment for preparation of the clerk's record.
2. Whether the appeal should be dismissed because appellant failed to comply with appellate rules and the clerk's notices requiring a response or other action within a specified time.

HOLDINGS

1. An appeal may be dismissed for want of prosecution when the appellant fails to pay or arrange payment for preparation of the clerk's record and the record does not show that the appellant is entitled to proceed without payment of costs.
2. The court may dismiss an appeal when an appellant fails to comply with a requirement of the appellate rules, a court order, or a clerk's notice requiring a response or other action within a specified time.

KEY QUOTATIONS

“The Texas Rules of Appellate Procedure authorize us to dismiss an appeal for want of prosecution when the appellant has failed to pay or arranged to pay for the preparation of the clerk’s record unless the appellant is entitled to proceed without payment of costs.” (p. 2)

“The Court also has the authority to dismiss an appeal because the appellant has 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.” (p. 2)

FACTUAL BACKGROUND

Appellant Lena Essing Comstock filed a notice of appeal from an order in a probate proceeding. The clerk's record was not prepared because appellant failed to make arrangements for payment. Despite two clerk's notices warning that the appeal was subject to dismissal, appellant did not arrange payment, establish entitlement to proceed without payment of costs, or otherwise respond.

PROCEDURAL HISTORY

Appellant appealed an order rendered in trial court cause number 2024-PR-00469-3. The clerk's record was due April 27, 2026, but appellant had not arranged payment for its preparation. The appellate clerk notified appellant on April 28 and May 22, 2026, that the appeal could be dismissed unless appellant arranged payment and provided proof within ten days. Appellant did not respond, and the court dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- In re T.L.R., 391 S.W.3d 669, 669 (Tex. App.—Dallas 2013, no pet.)
- Clinton v. Clinton, 198 S.W.3d 444, 444 (Tex. App.—El Paso 2006, no pet.)
- Smith v. DC Civil Constr., LLC, 521 S.W.3d 75, 76 (Tex. App.—San Antonio 2017, no pet.)

OPINION

PER CURIAM.

NUMBER 13-26-00197-CV COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI – EDINBURG ESTATE OF CLAIRE ESSING, DECEASED ON APPEAL
FROM THE COUNTY COURT AT LAW NO. 3 OF NUECES COUNTY, TEXAS
MEMORANDUM OPINION Before Chief Justice Tijerina and Justices Silva and Cron
Memorandum Opinion by Justice Silva Appellant Lena Essing Comstock filed a notice of appeal
from an order rendered in trial court cause number 2024-PR-00469-3 in the County Court at Law
Number 3 of Nueces County, Texas.

On April 28, 2026, and again on May 22, 2026, the Clerk of the Court notified appellant that the clerk's record in the above cause was originally due on April 27, 2026; however, the deputy district clerk had notified this Court that appellant failed to make arrangements for payment of the clerk's record.

The Clerk advised appellant that the appeal was subject to dismissal for want of prosecution unless appellant arranged to pay for the clerk's record and provided proof of payment to this Court within ten days. See TEX. R. APP. P. 37.3(b), 42.3(b), (c). Appellant did not indicate that she was entitled to proceed without payment, make arrangements to secure the filing of the clerk's record, or otherwise respond to the Clerk's notices.

The Texas Rules of Appellate Procedure authorize us to dismiss an appeal for want of prosecution when the appellant has failed to pay or arranged to pay for the preparation of the clerk's record unless the appellant is entitled to proceed without payment of costs. See *id.* R. 37.3(b), 42.3(b), (c); In re T.L.R., 391 S.W.3d 669, 669 (Tex. App.—Dallas 2013, no pet.); Clinton v. Clinton, 198 S.W.3d 444, 444 (Tex.

App.—El Paso 2006, no pet.). The Court also has the authority to dismiss an appeal because the appellant has 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. See TEX. R. APP. P. 42.3(b), (c); Smith v. DC Civil Constr., LLC, 521 S.W.3d 75, 76 (Tex.

App.—San Antonio 2017, no pet.). The Court, having examined and fully considered the documents on file and the foregoing events, is of the opinion that this appeal should be dismissed.

The record does not reflect that appellant has paid for the clerk's record, arranged to pay for the clerk's record, or that appellant is entitled to proceed without payment of costs.

Accordingly, we dismiss the appeal. See TEX. R. APP. P. 37.3(b), 42.3(b), (c). CLARISSA SILVA Justice Delivered and filed on the 18th day of June, 2026. 2