

COURT OF APPEALS OF THE FIFTH DISTRICT OF TEXAS AT DALLAS

Angela Evans v. David Arthur

No. 05-14-00559-CV · No. No. 05-14-00559-CV · Decided January 12, 2015

SUMMARY

The Fifth District Court of Appeals of Texas at Dallas dismissed Angela Evans's appeal because she failed to file an appellant's brief, an extension motion, or other communication after being notified that the briefing deadline had expired. The court assessed the costs of the appeal against Evans.

CASE DETAILS

COURT	Court of Appeals of the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Chief Justice Carolyn Wright; Justice Lang-Miers; Justice Stoddart
JURISDICTION	Texas
DECIDED	January 12, 2015
DOCKET	No. 05-14-00559-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed after appellant failed to file an appellate brief or a motion for extension despite notice from the court.
PRECEDENTIAL VALUE	published
PARTIES	Angela Evans v. David Arthur

TOPICS

- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- Whether the appeal should be dismissed when the appellant failed to file an appellate brief or a motion for extension after notice and an opportunity to cure the default.

HOLDINGS

1. An appeal may be dismissed when the appellant fails to file a required brief or a motion for extension after being notified that the deadline has expired and warned of possible dismissal.

KEY QUOTATIONS

“As of today, the Court has not received a brief, an extension motion, or other communication from the appellant.”

“Accordingly, we dismiss the appeal.”

FACTUAL BACKGROUND

The appellant’s deadline to file her appellate brief expired. After receiving a December 10, 2014 notice warning that the appeal could be dismissed, she failed to file a brief, a motion for extension, or any other communication with the court.

PROCEDURAL HISTORY

Angela Evans appealed from the County Court at Law No. 6 of Collin County, Texas. The court of appeals notified her that the deadline for filing her brief had expired and warned that the appeal could be dismissed if she did not file the brief and an extension motion within ten days. Evans filed neither, and the court dismissed the appeal and awarded appellate costs to David Arthur.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Dismissed and Opinion Filed January 7, 2015. S In The Court of Appeals Fifth District of Texas at Dallas No. 05-14-00559-CV ANGELA EVANS, Appellant V. DAVID ARTHUR, Appellee On Appeal from the County Court at Law No. 6 Collin County, Texas Trial Court Cause No. 006-00536-2014 MEMORANDUM OPINION Before Chief Justice Wright, Justice Lang-Miers, and Justice Stoddart Opinion by Chief Justice Wright By letter dated December 10, 2014, we notified appellant the time for filing her brief had expired.

We cautioned appellant that the appeal could be dismissed if she failed to file her brief and an extension motion within ten days from the date of our letter. As of today, the Court has not received a brief, an extension motion, or other communication from the appellant.

Accordingly, we dismiss the appeal. See TEX. R. APP. P. 42.3(b), (c). 140559F.P05 /Carolyn Wright/ CAROLYN WRIGHT CHIEF JUSTICE S Court of Appeals Fifth District of Texas at Dallas JUDGMENT ANGELA EVANS, Appellant On Appeal from the County Court at Law No.

6, Collin County, Texas No. 05-14-00559-CV V. Trial Court Cause No. 006-00536-2014. Opinion delivered by Chief Justice Wright.

DAVID ARTHUR, Appellee Justices Lang-Miers and Stoddart participating. In accordance with this Court's opinion of this date, the appeal is DISMISSED. It is ORDERED that appellee DAVID ARTHUR recover his costs of this appeal from appellant ANGELA EVANS. Judgment entered January 7, 2015. -2-