

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Michael D. Rodgers Sr. v. Bank of America, N.A.

Rodgers v. Bank of America · No. 05-13-00357-CV · Decided September 24, 2013

SUMMARY

The Fifth District Court of Appeals of Texas granted Bank of America, N.A.’s motion to dismiss the appeal as moot and for failure to prosecute. The court dismissed the appeal because the appellant had not responded to the motion or filed the required brief, and awarded appellate costs to the appellee.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Per Curiam; David L. Bridges; Fillmore; Lewis
JURISDICTION	Texas
DECIDED	September 24, 2013
DOCKET	05-13-00357-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed from the County Court at Law No. 2 of Dallas County. The appellee moved to dismiss the appeal as moot and for failure to prosecute.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; no reporter citation appears in the provided text.
PARTIES	Michael D. Rodgers Sr. v. Bank of America, N.A.

TOPICS

- appellate procedure
- mootness
- civil procedure
- costs

PRACTICE AREAS

- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

- Whether the appeal should be dismissed for failure to prosecute after the appellant failed to file the required brief and failed to respond to the appellee's dismissal motion.
- Whether the appeal should be dismissed as moot.

HOLDINGS

1. The appeal was dismissed because the appellant failed to prosecute the appeal, including failing to file the required brief and failing to respond to the appellee's motion to dismiss; the court also granted the motion insofar as it sought dismissal as moot.

KEY QUOTATIONS

“The Court accordingly *GRANTS* the motion and *DISMISSES* this appeal.”

FACTUAL BACKGROUND

The record presented in the opinion concerns an appeal in which the appellant failed to file the required appellate brief by the due date. The appellant also failed to respond to the appellee's motion to dismiss the appeal as moot and for failure to prosecute.

PROCEDURAL HISTORY

The appeal was taken from the County Court at Law No. 2, Dallas County, Texas. The appellee filed a motion to dismiss on September 9, 2013, asserting mootness and failure to prosecute. The appellant did not respond and failed to file the appellant's brief, which was due May 1, 2013. The court granted the motion and dismissed the appeal, taxing appellate costs against the appellant.

DISPOSITION

dismissed