

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Omar Elizondo, et al. v. Hilcorp Energy Company and Predecessors

No. 04-24-00714-CV · No. 04-24-00714-CV · Decided January 14, 2026

SUMMARY

The Texas Fourth Court of Appeals affirmed a summary judgment for Hilcorp Energy Company and its predecessors in an oil and gas royalty dispute. The pro se appellants primarily argued that Hilcorp failed to properly serve its summary judgment motion electronically. The court held that the appellants waived their issues because their amended brief lacked accurate record references and adequate legal analysis.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Rebeca C. Martinez, Chief Justice; H. Todd McCray, Justice; Velia J. Meza, Justice
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	January 14, 2026
DOCKET	04-24-00714-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a traditional summary judgment granted for Hilcorp Energy Company and its predecessors in an oil-and-gas royalty dispute.
STANDARD OF REVIEW	The opinion does not articulate a separate standard of review for summary judgment because it resolves the appeal on waiver based on inadequate briefing.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Omar Elizondo, Ovidio Elizondo v. Hilcorp Energy Company and its predecessors

TOPICS

- appellate procedure
- waiver
- summary judgment
- oil and gas
- minerals

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether appellants' complaint that Hilcorp failed to properly electronically serve its summary-judgment motion was preserved and presented for appellate review despite inadequate briefing.
2. Whether the trial court's summary judgment should be affirmed.

HOLDINGS

1. Pro se litigants are held to the same procedural standards as licensed attorneys and must comply with applicable procedural rules.
2. Appellants waived their issues because their amended brief lacked record references, inaccurately represented the reporter's record, and failed to present adequate legal argument and analysis; consequently, nothing was presented for appellate review.

KEY QUOTATIONS

"There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves." (at 3)

"Therefore, we conclude that Omar and Ovidio have waived their issues by inadequate briefing." (at 6)

FACTUAL BACKGROUND

Omar Elizondo filed an oil-and-gas royalty dispute against Hilcorp Energy Company, and Ovidio Elizondo later appeared as a co-plaintiff. Hilcorp electronically served its traditional summary-judgment motion at alma_omar@live.com, the email address acknowledged in the hearing to be associated with Omar's wife and used for court communications. Elizondo filed no summary-judgment response and later argued that he had not received the motion. The appellate court found that appellants' amended brief lacked record references, inaccurately characterized the reporter's record, and failed to provide adequate legal analysis.

PROCEDURAL HISTORY

Omar Elizondo filed a petition seeking declaratory and equitable relief concerning an oil-and-gas royalty dispute. Hilcorp answered, filed a petition in interpleader, and moved for traditional summary judgment on limitations grounds after electronically serving Elizondo. The trial court granted summary judgment. On appeal, the court struck appellants' deficient filings, permitted one amended brief, and affirmed after concluding the amended brief failed to comply with Texas Rule of Appellate Procedure 38.1.

DISPOSITION

affirmed

CASES CITED

- *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978)

- ERI Consulting Eng'rs, Inc. v. Swinnea, 318 S.W.3d 867, 880 (Tex. 2010)
- Williams v. Stiles, No. 04-18-00575-CV, 2020 WL 1277701, at *2 (Tex. App.—San Antonio Mar. 18, 2020, no pet.) (mem. op.)
- Horton v. Stovall, 591 S.W.3d 567, 570 (Tex. 2019) (per curiam)
- Li v. Pemberton Park Cmty. Ass'n, 631 S.W.3d 701, 706 (Tex. 2021) (per curiam)
- Briggs v. Bank of Am., N.A., No. 04-16-00087-CV, 2017 WL 685764, at *2 (Tex. App.—San Antonio Feb. 22, 2017, no pet.) (mem. op.)
- Washington v. Bank of N.Y., 362 S.W.3d 853, 854 (Tex. App.—Dallas 2012, no pet.)
- Tindell v. Hildebrandt, No. 04-23-00414-CV, 2025 WL 1063115, at *3 (Tex. App.—San Antonio Apr. 9, 2025, no pet.) (mem. op.)

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas MEMORANDUM OPINION No. 04-24-00714-CV Omar ELIZONDO, et al., Appellants v. HILCORP ENERGY COMPANY and Predecessors, Appellees From the 49th Judicial District Court, Zapata County, Texas Trial Court No. 12,062 Honorable Jose A. Lopez, Judge Presiding Opinion by: Rebeca C. Martinez, Chief Justice Sitting: Rebeca C. Martinez, Chief Justice H. Todd McCray, Justice Velia J. Meza, Justice Delivered and Filed: January 14, 2026 AFFIRMED Pro se appellants Omar Elizondo and Ovidio Elizondo appeal from a summary judgment granted in favor of appellee Hilcorp Energy Company and its predecessors.

In approximately twenty-five issues, appellants complain that Hilcorp did not properly e-serve them with its motion for summary judgment. We affirm. 04-24-00714-CV I. BACKGROUND In the trial court, Omar Elizondo, proceeding pro se, filed an original petition naming appellee Hilcorp as a defendant. Omar's petition requested, among other things, declaratory and equitable relief relating to an oil and gas royalty dispute.

Hilcorp filed an original answer that generally denied the allegations in Omar's petition and a petition in interpleader. Ovidio Elizondo, also proceeding pro se, later appeared alongside Omar Elizondo (collectively and singularly referred to as "Elizondo") on court filings as a plaintiff.

As the case progressed, Hilcorp moved for a traditional summary judgment on limitations grounds. Hilcorp e-served Elizondo with its summary judgment motion. See TEX. R. CIV. P. 21a(a)(1) ("A document filed electronically under Rule 21 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager.").

The trial court, through its court coordinator, e-mailed all parties, including Omar, an order setting hearing on Hilcorp's motion. The court coordinator used the same e-mail address that Hilcorp used

to e-serve Elizondo: alma_omar@live.com. Elizondo filed no response to Hilcorp Energy's motion for traditional summary judgment. Instead, at the summary judgment hearing, Omar argued he did not receive Hilcorp's motion.

The trial court conferred with court personnel about Omar's complaint: CLERK: The e-mail is there, Judge. OMAR: It was pending. COURT: Right. CLERK: It says alma_omar@life.com, 4/18/2024, sent. COURT: Wait, wait. Oh, there.

Here it is. Case contacts, that one? Okay. Here it is. CLERK: Certificate of service of e-service. -2- 04-24-00714-CV HILCORP: It's Alma. It's his wife's e-mail address. OMAR: Then it says Omar. I'm Omar. COURT: Hold on. Hold on. Which one is it? OMAR: It's Alma — COURT: I'm sorry. CLERK: Third to the last, Judge, of the first — COURT: Oh, okay. Omar Elizondo. alma_omar@live.com.

It says it was sent on April 18th at 11:43 in the morning; alma_omar@live.com. OMAR: Well, maybe I missed it. I don't know. Because I didn't get it. COURT: That is your e-mail. Is that correct, sir? OMAR: That's her e-mail, yes, sir. COURT: Alma_omar@live.com? OMAR: That's it, yes. COURT: Okay. So — OMAR: I mean, I need an opportunity with a jury — After the hearing, the trial court signed an order granting Hilcorp's motion for traditional summary judgment.

Elizondo appealed from the summary judgment order. After Elizondo perfected his appeal, he filed numerous motions, briefs, amended briefs and reply briefs. We noted that these filings contained numerous errors in form and that it was difficult for us to determine the bases upon which Elizondo sought review.

We struck all of Elizondo's filings, and we ordered Elizondo to file a single brief that clearly set forth the issues he would like us to consider. We cautioned Elizondo that his amended brief must comply with all the requirements of Texas Rules of Appellate Procedure 9.4 and 38.1(i), particularly the requirement -3- 04-24-00714-CV that an appellant's brief must provide the court with "a succinct, clear, and accurate statement of the arguments made in the body of the brief." See TEX. R. APP.

P. 38.1(i). Thereafter, Elizondo filed an amended brief, and we submitted the case without oral argument. Notwithstanding the clerk's marking of Elizondo's amended brief as filed, we advised Elizondo that his amended brief did not contain a statement of facts with record references and a proper legal argument with appropriate citations to the appellate record.

See TEX. R. APP. P. 38.1(g), (i). In light of our pre-submission order identifying deficiencies in Elizondo's numerous previously filed briefs and affording Elizondo an opportunity to file an amended brief, we declined to allow further briefing. Cf. TEX. R. APP. P. 38.7 ("A brief may be

amended or supplemented whenever justice requires, on whatever reasonable terms the court may prescribe.”).

II. DISCUSSION As a pro se litigant, Elizondo is held to the same standards as a licensed attorney and must comply with all applicable procedural rules. See *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184–85 (Tex. 1978) (“There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves.”). “The Texas Rules of Appellate Procedure require adequate briefing.” *ERI Consulting Eng’rs, Inc. v. Swinnea*, 318 S.W.3d 867, 880 (Tex.

2010). It is well-settled that, under these rules, an appellant’s brief must concisely state the facts, supported by record references, and contain a clear and concise argument for the contentions made with appropriate citations to authorities and to the appellate record. See TEX. R. APP. P. 38.1(g), (i); *Williams v. Stiles*, No. 04-18-00575-CV, 2020 WL 1277701, at *2 (Tex.

App.—San Antonio Mar. 18, 2020, no pet.) (mem. op.). Elizondo’s amended brief fails to abide by Texas Rule of Appellate Procedure 38.1 in two ways. First, Elizondo’s amended brief contains not a single reference to the appellate record. Instead, it references exhibits that Elizondo filed in this court. Hilcorp cautions that four of -4- 04-24-00714-CV Elizondo’s exhibits “consist of excerpts and edited excerpts from Elizondo’s post-summary judgment filings.

While parts of these exhibits may be in the record in unedited form, the versions attached to Elizondo’s [amended] [b]rief are not true copies of the documents in the record and should be disregarded.” We have gratuitously attempted to reconcile one of Elizondo’s exhibits to its corresponding filing in the clerk’s record. See *Horton v. Stovall*, 591 S.W.3d 567, 570 (Tex.

2019) (per curiam) (“[N]othing prevents courts from undertaking reasonable efforts to locate evidence described in a [pro se] party’s brief.”). For example, the clerk’s record contains an “URGENT OBJECTION Withdrawal of the Ruling for Defendant’s Summary Judgment Judge Lopez: Immediate Response Required” that Omar filed on August 13, 2024. Elizondo’s corresponding exhibit varies from the document in the clerk’s record.

Accordingly, we cannot rely on Elizondo’s exhibits as an accurate representation of filings that the trial court may have considered. We will also not scour the clerk’s record to substitute Elizondo’s exhibit references with accurate record references.

The original and supplemental clerk’s record together span approximately nine-hundred-and-forty-three pages. Such an endeavor is not a reasonable use of judicial resources. Cf. *id.* Second, Elizondo’s amended brief conveys an inaccurate representation of the reporter’s record as well.

In his statement of facts, Elizondo writes: The Appellees are avoiding a court trial because the Appellants would provide facts to the small town people of Zapata, many who have also been

robbed, as the Elizondos have; therefore, to prevent the exposure of facts; when the Appellant told Judge Lopez and everyone present in court that he had NEVER been served the document, the judge announced, “I don’t care, I am still ruling on this summary judgment.” (Exhibit C) Elizondo’s Exhibit C is not the reporter’s record from the summary judgment hearing.

We have nevertheless reviewed the reporter’s record from the summary judgment hearing and recounted -5- 04-24-00714-CV the relevant portion. We cannot find where the trial court allegedly stated, “I don’t care, I’m still ruling on this summary judgment.” Reading Elizondo’s amended brief with “liberality and patience,” *Li v. Pemberton Park Cmty. Ass’n*, 631 S.W.3d 701, 706 (Tex.

2021) (per curiam), appellants’ primary complaint is that Omar was not properly e-served Hilcorp’s motion for traditional summary judgment. Elizondo’s amended brief not only contains no record references to how Omar presented appellants’ complaint to the trial court, but it inaccurately portrays what transpired.

In light of this deficiency — and inaccuracy — Elizondo has presented nothing for our review. See *Briggs v. Bank of Am., N.A.*, No. 04-16-00087-CV, 2017 WL 685764 at *2 (Tex. App.—San Antonio Feb. 22, 2017, no pet.) (mem. op.) (“When an appellant fails to cite applicable authority, fails to provide relevant citations to the record, or fails to provide substantive analysis for an issue presented in the brief, nothing is presented for our review.”); see also *Washington v. Bank of N.Y.*, 362 S.W.3d 853, 854 (Tex.

App.—Dallas 2012, no pet.) (bare assertions of error, without argument or authority, present nothing for review on appeal). Therefore, we conclude that Omar and Ovidio have waived their issues by inadequate briefing. See TEX. R. APP. P. 38.1(i); *Tindell v. Hildebrandt*, No. 04-23-00414-CV, 2025 WL 1063115, at *3 (Tex. App.—San Antonio Apr. 9, 2025, no pet.) (mem. op.) (“In short, [pro se appellant’s] filings, including her amended brief, her letters, and her additional brief, present nothing for review because they include no record citations or record support and no legal citations or legal analysis.”).

III. CONCLUSION The judgment of the trial court is affirmed. Rebeca C. Martinez, Chief Justice
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