

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Broadrick Umeh v. Daniel Rivas

No. 05-15-00784-CV (Tex. App.—Dallas Sept. 4, 2015) · No. No. 05-15-00784-CV · Decided September 4, 2015

SUMMARY

The Texas Court of Appeals for the Fifth District ordered that the appeal proceed without the reporter’s record because the appellant failed to provide required documentation showing that the record had been requested and paid for or that costs had been waived. The court directed the appellant to file a brief within thirty days of the order.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Elizabeth Lang-Miers
JURISDICTION	Texas
DECIDED	September 4, 2015
DOCKET	No. 05-15-00784-CV
DISPOSITION	other
PROCEDURAL POSTURE	On appeal from the County Court at Law No. 5 of Dallas County, Texas, the court addressed appellant's failure to obtain and document preparation of the reporter's record.
PRECEDENTIAL VALUE	published
PARTIES	Broadrick Umeh v. Daniel Rivas

TOPICS

- appellate procedure
- civil procedure
- preservation of error

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- Whether the appeal should be submitted without the reporter's record when appellant failed to provide the documentation required by the appellate court after notice and an opportunity to comply.

HOLDINGS

1. When an appellant fails to provide the required documentation showing that the reporter's record was requested and that the reporter's fee was paid, arranged, or waived, the appellate court may order the appeal submitted without the reporter's record under Texas Rule of Appellate Procedure 37.3(c).

KEY QUOTATIONS

“Accordingly, we ORDER the appeal submitted without the reporter’s record.”

FACTUAL BACKGROUND

The reporter's record was past due, and the court reporter informed the appellate court that appellant had not requested its preparation. Despite a prior letter directing appellant to provide proof of the request and payment or waiver of the reporter's fee, appellant had not filed the required documentation by the date of the order.

PROCEDURAL HISTORY

The reporter's record was past due because appellant had not requested its preparation. After the court instructed appellant to provide documentation showing that the record had been requested and that the reporter's fee had been paid, arranged, or waived, appellant failed to file the required documentation. The appellate court therefore ordered the appeal submitted without the reporter's record and set appellant's brief due within thirty days.

DISPOSITION

other

OPINION

PER CURIAM.

Order entered September 4, 2015 In The Court of Appeals Fifth District of Texas at Dallas No. 05-15-00784-CV BROADRICK UMEH, Appellant V. DANIEL RIVAS, Appellee On Appeal from the County Court at Law No. 5 Dallas County, Texas Trial Court Cause No. CC-12-04556-E ORDER The reporter’s record is past due.

The court reporter informed the Court that appellant has not requested preparation of the reporter’s record. In a letter dated August 11, 2015, we instructed appellant to provide this Court, within ten days, (1) notice that he has requested preparation of the reporter’s record and (2) written verification that appellant has paid or made arrangements to pay the reporter’s fee or written documentation that appellant has been found to be entitled to proceed without payment of costs.

We cautioned appellant that, if we did not receive the required documentation within the time specified, we may order the appeal submitted without the reporter’s record. See TEX. R. APP. P. 37.3(c). As of today’s date, appellant has not filed the required documentation.

Accordingly, we ORDER the appeal submitted without the reporter's record. See TEX. R. APP. P. 37.3(c). Appellant's brief is due within THIRTY DAYS from the date of this order. /s/ ELIZABETH LANG-MIERS JUSTICE

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