

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Syed Rahman and Sabrina Rahman v. Charlene N. Foster

No. 05-16-01042-CV · No. 05-16-01042-CV · Decided December 13, 2016

SUMMARY

The Court of Appeals for the Fifth District of Texas orders the Collin County District Clerk to notify the appellants of the cost of preparing the clerk's record and to file documentation of that amount. The order addresses the overdue clerk's record and explains the clerk's obligations under Texas Rules of Appellate Procedure 34.5 and 35.3.

OPINION

PER CURIAM.

Order entered December 13, 2016 In The Court of Appeals Fifth District of Texas at Dallas No. 05-16-01042-CV SYED RAHMAN AND SABRINA RAHMAN, Appellant V. CHARLENE N. FOSTER, Appellee On Appeal from the 219th Judicial District Court Collin County, Texas Trial Court Cause No. 219-03078-2015 ORDER The clerk's record in this case remains overdue.

On November 4, 2016, we ordered the Collin County District Clerk to file with this Court either the Clerk's Record or written documentation of notification to appellants of the amount due for the clerk's record. In a letter dated November 10, 2016, the district clerk informed this Court that the District Clerk's Office does not calculate the costs of a clerk's record until after the appellant files a Designation of Clerk's Record.

Appellants have now informed the Court that they have not filed "the paper works [sic]" with the district court because appellants do not understand what to file. The trial court clerk is required by Texas Rule of Appellate Procedure 35.3(a) to compile, certify, and file the clerk's record. TEX. R. APP. P. 35.3(a). Rule 34.5(a) lists documents that the trial court clerk must include in the record, and rule 34.5(b) provides that a party may request that additional items be included in the record.

TEX. R. APP. P. 34.5(a),(b). Accordingly, we ORDER the Collin County District Clerk to notify appellants of the cost to prepare a Clerk's Record that includes the items required by rule 34.5(a) of the Texas Rules of Appellate Procedure within FIVE DAYS of the date of this order.

We further ORDER the Collin County District Clerk to file, within TEN DAYS of the date of this order, written documentation to appellants of the amount due for the clerk's record. We DIRECT the Clerk of the Court to send a copy of this order to Collin County District Clerk Lynne Finley and to all Parties. /s/ ELIZABETH LANG-MIERS JUSTICE

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