

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.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Elizabeth Lang-Miers
JURISDICTION	Texas
DECIDED	December 13, 2016
DOCKET	05-16-01042-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellate administrative order addressing an overdue clerk's record in a pending appeal.
PRECEDENTIAL VALUE	Published
PARTIES	Syed Rahman, Sabrina Rahman v. Charlene N. Foster

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. What obligations does the trial court clerk have to compile, certify, and file the clerk's record in an appeal?
2. What action was required to address the overdue clerk's record and ensure that appellants were notified of the cost of preparing it?

HOLDINGS

1. The trial court clerk is required to compile, certify, and file the clerk's record, including the documents required by Texas Rule of Appellate Procedure 34.5(a).
2. The Collin County District Clerk was ordered to notify appellants within five days of the cost to prepare a clerk's record containing the items required by Rule 34.5(a), and to file written documentation of the amount due within ten days.

KEY QUOTATIONS

"The trial court clerk is required by Texas Rule of Appellate Procedure 35.3(a) to compile, certify, and file the clerk's record." (Order)

"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." (Order)

FACTUAL BACKGROUND

The clerk's record in the appeal was overdue. The Collin County District Clerk had informed the appellate court that the clerk's office did not calculate the cost of the record until an appellant filed a designation of clerk's record. Appellants reported that they had not filed the requested paperwork because they did not understand what to file.

PROCEDURAL HISTORY

The appeal was taken from the 219th Judicial District Court of Collin County, Texas. After the clerk's record remained overdue, the court of appeals ordered the Collin County District Clerk to file the record or documentation showing that appellants had been notified of the amount due. The district clerk reported that costs were not calculated until appellants filed a designation of clerk's record, and appellants stated that they did not understand what to file. The court then ordered the district clerk to notify appellants of the cost of preparing a record containing the items required by Texas Rule of Appellate Procedure 34.5(a) and to file written documentation of the amount due.

DISPOSITION

other