

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Kenneth Smith and Shanel Smith v. JPMorgan Chase Bank, N.A.

Smith v. JPMorgan Chase Bank · No. 05-17-01117-CV · Decided December 13, 2017

SUMMARY

The Texas Court of Appeals, Fifth District of Dallas, ordered that the appeal proceed without a reporter's record because the appellants had not paid for it or demonstrated eligibility to proceed without payment of costs. The court also ordered the appellants to file their brief by January 12, 2018.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Craig Stoddart
JURISDICTION	Texas
DECIDED	December 13, 2017
DOCKET	05-17-01117-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory procedural order directing that the appeal proceed without the reporter's record and ordering appellants to file their brief.
PRECEDENTIAL VALUE	Published procedural order
PARTIES	Kenneth Smith, Shanel Smith v. JPMorgan Chase Bank, N.A.

TOPICS

appellate procedure

civil procedure

costs

PRACTICE AREAS

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the appeal should be submitted without the reporter's record after appellants failed to pay for it or verify that they had made arrangements to pay or were entitled to proceed without payment of costs.
2. When appellants must file their appellate brief after the appeal is submitted without the reporter's record.

HOLDINGS

1. Because appellants failed to comply with the court's directive concerning payment or arrangements for payment of the reporter's-record fee, the appeal was ordered submitted without the reporter's record.

KEY QUOTATIONS

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

FACTUAL BACKGROUND

The reporter's record was not filed because appellants had not paid for it. The appellate court previously directed appellants to verify that they had paid or arranged to pay the fee, or that they were entitled to proceed without payment of costs. Appellants did not comply with that directive, although the clerk's record had been filed.

PROCEDURAL HISTORY

Appellants appealed from the County Court at Law No. 2 of Kaufman County. The reporter's record had not been filed because appellants had not paid for it or established their entitlement to proceed without payment. After appellants failed to comply with the appellate court's prior directive, the court ordered the appeal submitted without the reporter's record and set a briefing deadline.

DISPOSITION

other

OPINION

Kenneth Smith and Shanel Smith v. JPMorgan Chase Bank, N.A.

PER CURIAM.

Order entered December 13, 2017 In The Court of Appeals Fifth District of Texas at Dallas No. 05-17-01117-CV KENNETH SMITH AND SHANEL SMITH, Appellants V. JPMORGAN CHASE BANK, N.A., Appellee On Appeal from the County Court at Law No. 2 Kaufman County, Texas Trial Court Cause No. 17C-071-2

ORDER

The reporter’s record in this appeal has not been filed because appellants have not paid for it. By letter dated November 7, 2017, we directed appellants to file, within ten days, written verification they had paid or made arrangements to pay the fee or are entitled to proceed without payment of costs. We cautioned appellants that failure to comply could result in the appeal being submitted without the reporter’s record. See TEX. R. APP. P. 37.3(c). To date, however, appellants have not complied. Accordingly, we ORDER the appeal submitted without the reporter’s record. See *id.* As the clerk’s record has been filed, we further ORDER appellants to file their brief no later than January 12, 2018.

/s/ CRAIG STODDART

JUSTICE

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