

COURT OF APPEALS OF TEXAS, SECOND DISTRICT, FORT WORTH

Davis T. Montfort v. Jerry Jones, et al.

No. 2-07-340-CV (Tex. App.—Fort Worth Dec. 6, 2007) · No. No. 2-07-340-CV · Decided December 6, 2007

SUMMARY

The Second Court of Appeals of Texas denied the appellant's motion to delay payment-related proceedings and dismissed the appeal for failure to pay the required \$175 filing fee. The court assessed appellate costs against the appellant.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District, Fort Worth
WRITING FOR THE COURT	Holman, J.; Gardner, J.; Walker, J.
JURISDICTION	Texas
DECIDED	December 6, 2007
DOCKET	No. 2-07-340-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant sought to delay payment of the appellate filing fee and failed to pay the \$175 fee after receiving notice that the appeal would be dismissed for noncompliance.
PRECEDENTIAL VALUE	unpublished
PARTIES	Davis T. Montfort v. Jerry Jones, et al.

TOPICS

- appellate procedure
- costs
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

- Whether the court of appeals should grant appellant's motion to delay payment-related proceedings.
- Whether the appeal should be dismissed because appellant failed to pay the required appellate filing fee after notice.

HOLDINGS

1. The court denied appellant's motion to delay action concerning his affidavit of inability to pay.
2. An appellate court may dismiss an appeal when the appellant fails to comply with the appellate rules and applicable fee requirements after receiving notice that noncompliance will result in dismissal.

KEY QUOTATIONS

“Because appellant has failed to comply with a requirement of the rules of appellate procedure and the Texas Supreme Court=s order of August 28, 2007, we dismiss the appeal.”

FACTUAL BACKGROUND

Appellant did not pay the \$175 filing fee required for the appeal. The court notified him twice that the appeal would be dismissed unless the fee was paid, but he failed to comply. He also filed a motion seeking to delay action concerning his affidavit of inability to pay.

PROCEDURAL HISTORY

The appeal came from the Seventeenth District Court of Tarrant County. The court of appeals denied appellant's motion concerning his affidavit of inability to pay, notified him on October 9 and October 26, 2007, that the appeal would be dismissed unless the \$175 filing fee was paid, and dismissed the appeal when he failed to pay.

DISPOSITION

dismissed

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 2-07-340-CV DAVIS T. MONTFORT APPELLANT V. JERRY JONES, ET AL. APPELLEES FROM THE 17TH DISTRICT COURT OF TARRANT COUNTY MEMORANDUM OPINION[1] AND JUDGMENT The court has considered appellant=s AMotion To Delay Of Affidavit Of Inability To Pay@ and is of the opinion that the motion should be denied. Furthermore, on October 9, 2007 and October 26, 2007, we notified appellant, in accordance with rule of appellate procedure 42.3(c), that we would dismiss this appeal unless the \$175 filing fee was paid.

See Tex. R. App. P. 42.3(c). Appellant has not paid the \$175 filing fee. See Tex. R. App. P. 5, 12.1(b). Because appellant has failed to comply with a requirement of the rules of appellate procedure and the Texas Supreme Court=s order of August 28, 2007,[2] we dismiss the appeal. See Tex. R. App. P. 42.3(c), 43.2(f). Appellant shall pay all costs of this appeal, for which let execution issue.

See Tex. R. App. P. 43.4. PER CURIAM PANEL D: HOLMAN, GARDNER, and WALKER, JJ. DELIVERED: December 6, 2007 [1]See Tex. R. App. P. 47.4. [2]See Supreme Court of Tex., Order Regarding Fees Charged in Civil Cases in the Supreme Court and the Courts of Appeals and Before the Judicial Panel on Multidistrict Litigation, Misc. Docket No. 07-9138 (Aug. 28, 2007) (listing fees in court of appeals).

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