

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS AT HOUSTON

Michael Francis Palma v. Houston Independent School District and Linebarger, Goggan, Blair and Sampson, LLP

Palma · No. 01-07-00898-CV · Decided November 5, 2012

SUMMARY

The First Court of Appeals for the First District of Texas at Houston denies appellant Michael Francis Palma's motion to complete the appellate record. The court concludes that the requested documents were not required components of the clerk's record, had not been properly designated, and that no additional reporter's records existed for the hearings at issue. The court also states that the appellee's brief remained due on November 9, 2012.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas at Houston
WRITING FOR THE COURT	Justice James Sharp, Jr.
JURISDICTION	Texas
DECIDED	November 5, 2012
DOCKET	01-07-00898-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant moved in the court of appeals to complete or supplement the appellate record with additional reporter's-record transcripts and clerk's-record documents.
PRECEDENTIAL VALUE	published
PARTIES	Michael Francis Palma v. Houston Independent School District, for itself and on behalf of Harris County Educational District, Linebarger, Goggan, Blair and Sampson, LLP

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the appellate record should be supplemented with transcripts from hearings for which the court reporter confirmed that no reporter's record existed.
2. Whether the clerk's record should be supplemented with documents that were not required under Texas Rule of Appellate Procedure 34.5(a) and had not been properly designated for inclusion.

HOLDINGS

1. The court denied appellant's request to supplement the reporter's record because the court reporter confirmed that no records existed for the requested hearings, leaving no additional reporter's records with which the appellate record could be supplemented.
2. The court denied supplementation of the clerk's record because the requested documents did not fall within the documents required by Rule 34.5(a)(1)-(12), and appellant had not shown that he had designated the documents for inclusion or requested a supplemental clerk's record as required by Rule 34.5(a)(13) and (c)(1).

KEY QUOTATIONS

“Accordingly, we DENY appellant’s “Motion . . . for a Complete Record.””

FACTUAL BACKGROUND

Appellant sought transcripts from January 12 and February 2, 2007, asserting that the court reporter had been present, but the reporter informed the appellate court that no records existed for those dates. He also sought supplementation of the clerk's record with various documents and exhibits. The court determined that most requested documents were not among those required for inclusion under Texas Rule of Appellate Procedure 34.5(a), that appellant had not shown proper designation or a request for a supplemental record, and that one amended answer had been superseded before trial.

PROCEDURAL HISTORY

The appeal arose from proceedings in the 61st District Court of Harris County, trial court cause number 2006-14382. After appellant filed an earlier motion to complete the record, the court of appeals dismissed that motion as moot because appellant had already filed his brief and because Texas Rules of Appellate Procedure 34.5(c) and 34.6(d) permit a party to direct supplementation without a court order. Appellant filed a second motion on October 30, 2012, which the court denied because the requested clerk's-record materials were not documents required under Rule 34.5(a)(1)-(12), had not been properly designated, and the court reporter confirmed that no reporter's records existed for the requested hearings.

DISPOSITION

other

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