

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Kimber Dunkelberg, Individually and as Trustee of the Dunkelberg
Living Trust; and William Dunkelberg, Individually and as Trustee
of the Dunkelberg Living Trust v. Mattie Ann Chandler

No. 07-26-00135-CV (Tex. App.—Amarillo Mar. 24, 2026) · No. No. 07-26-00135-CV · Decided March 24,
2026

SUMMARY

The Seventh District Court of Appeals of Texas dismissed the appeal for want of prosecution. The appellants failed to pay for or otherwise secure preparation of the clerk’s record, respond to the court’s directive, or elect to file an appendix in lieu of the record.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Per Curiam; Parker, C.J.; Doss, J.; Yarbrough, J.
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	March 24, 2026
DOCKET	No. 07-26-00135-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants appealed the trial court's order granting the plaintiff's motion to sever and partial traditional motion for summary judgment regarding trespass to try title. The court of appeals dismissed the appeal for want of prosecution after appellants failed to pay for or make arrangements for the clerk's record and failed to respond to the court's directive.
PRECEDENTIAL VALUE	published
PARTIES	Kimber Dunkelberg, individually and as trustee of the Dunkelberg Living Trust, William Dunkelberg, individually and as trustee of the Dunkelberg Living Trust v. Mattie Ann Chandler

TOPICS

- appellate procedure
- civil procedure
- summary judgment
- title disputes
- trusts

PRACTICE AREAS

appellate procedure

civil procedure

real estate

trusts

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed for want of prosecution when appellants failed to pay for or make arrangements for the clerk's record after being directed to do so.

HOLDINGS

1. An appeal may be dismissed for want of prosecution when the appellants fail to pay for or make arrangements for the clerk's record, fail to respond to the appellate court's directive, and do not elect to file an appendix in lieu of the clerk's record.

KEY QUOTATIONS

“Consequently, we dismiss the appeal for want of prosecution.” (at 2)

FACTUAL BACKGROUND

The underlying appeal concerned a trial court order severing claims and granting partial traditional summary judgment regarding trespass to try title. The appellate record was not filed because appellants failed to make payment arrangements for the clerk's record. Despite notice and a deadline from the court of appeals, appellants did not cure the omission or submit a response or alternative appendix.

PROCEDURAL HISTORY

The appeal arose from the 97th District Court of Clay County, Texas. The clerk's record was due February 23, 2026, but was not filed because appellants failed to make payment arrangements. After the court of appeals directed appellants to pay for the record by March 16, 2026, appellants neither paid, responded, nor elected to file an appendix instead of a clerk's record. The court dismissed the appeal for want of prosecution.

DISPOSITION

dismissed

OPINION

PER CURIAM.

In The Court of Appeals Seventh District of Texas at Amarillo No. 07-26-00135-CV KIMBER DUNKELBERG, INDIVIDUALLY AND AS TRUSTEE OF THE DUNKELBERG LIVING TRUST; AND WILLIAM DUNKELBERG, INDIVIDUALLY AND AS TRUSTEE OF THE DUNKELBERG LIVING TRUST, APPELLANTS V. MATTIE ANN CHANDLER, APPELLEE
On Appeal from the 97th District Court Clay County, Texas Trial Court No. 24-039-DCCV-0086,
Honorable Trish C. Byars, Presiding March 24, 2026 MEMORANDUM OPINION Before

PARKER, C.J. and DOSS and YARBROUGH, JJ. Appellants, Kimber Dunkelberg, Individually and as Trustee of the Dunkelberg Living Trust; and William Dunkelberg, Individually and as Trustee of the Dunkelberg Living Trust, appeal from the trial court's Order Granting Plaintiff's Motion to Sever and Order Granting Plaintiff's Partial Traditional Motion for Summary Judgment Regarding Trespass to Try Title.

1 The clerk's record was due February 23, 2026, but was not filed due to Appellants' failure to make payment arrangements for the record. See TEX. R. APP. P. 35.3(a)(2). By letter of March 5, 2026, we directed Appellants to pay for the clerk's record by March 16, 2026, or the appeal would be subject to dismissal for want of prosecution. See TEX. R. APP. P. 37.3(b).

To date, Appellants have not made payment arrangements for the clerk's record, filed a response addressing the omission, or submitted a notice electing to file an appendix in lieu of a clerk's record pursuant to Rule of Appellate Procedure 34.5a. Consequently, we dismiss the appeal for want of prosecution. See TEX. R. APP. P. 37.3(b), 42.3(b). Per Curiam 1 Originally appealed to the Second Court of Appeals, this appeal was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts.

See TEX. GOV'T CODE § 73.001. 2