

COURT OF APPEALS OF TEXAS, SECOND DISTRICT OF TEXAS, FORT
WORTH

Leslie Wayne Davidoff v. Cheryl Elaine Davidoff

No. 2-09-252-CV · No. No. 2-09-252-CV · Decided October 29, 2009

SUMMARY

The Texas Court of Appeals for the Second District dismissed the appeal because the appellant failed to pay the required \$175 filing fee after receiving multiple notices. The court assessed all appellate costs against the appellant.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District of Texas, Fort Worth
WRITING FOR THE COURT	Per Curiam; Cayce, C.J.; Livingston, J.; Dauphinot, J.
JURISDICTION	Texas
DECIDED	October 29, 2009
DOCKET	No. 2-09-252-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant's civil appeal was dismissed after he failed to pay the required \$175 appellate filing fee despite repeated notices that the appeal would be dismissed for noncompliance.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Leslie Wayne Davidoff v. Cheryl Elaine Davidoff

TOPICS

- appellate procedure
- costs
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed when the appellant failed to pay the required appellate filing fee after receiving notice that nonpayment would result in dismissal.

HOLDINGS

1. When an appellant fails to pay a required appellate filing fee after receiving notice and an opportunity to cure the noncompliance, the court may dismiss the appeal under Texas Rule of Appellate Procedure 42.3(c).

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

The court of appeals required appellant to pay a \$175 filing fee. The court sent three notices warning that the appeal would be dismissed if the fee was not paid. Appellant failed to pay the fee and also failed to comply with the applicable appellate procedural requirements and the Texas Supreme Court's fee order.

PROCEDURAL HISTORY

The appeal arose from the 211th District Court of Denton County. On July 28, August 13, and September 11, 2009, the court of appeals notified appellant that the appeal would be dismissed unless he paid the \$175 filing fee. Appellant did not pay the fee, so the court dismissed the appeal and assessed costs against him.

DISPOSITION

dismissed

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 2-09-252-CV
LESLIE WAYNE DAVIDOFF APPELLANT V. CHERYL ELAINE DAVIDOFF APPELLEE
FROM THE 211 TH DISTRICT COURT OF DENTON COUNTY MEMORANDUM OPINION
1 AND JUDGMENT On July 28, 2009, August 13, 2009 and September 11, 2009, 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). 1 ... See Tex. R. App. P. 47.4. 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: CAYCE, C.aJ.; LIVINGSTON and DAUPHINOT, JJ. DELIVERED: October 29, 2009 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 courts of appeals).