

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Richard L. Perez v. Department Stores National Bank, now merged into Citibank, N.A.

No. 04-22-00510-CV · No. No. 04-22-00510-CV · Decided January 25, 2023

SUMMARY

The Fourth Court of Appeals of Texas dismissed Richard L. Perez’s appeal for want of prosecution after he failed to file an appellant’s brief or respond to the court’s order requiring a brief and explanation. The court taxed costs of appeal against Perez.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Per Curiam; Rebeca C. Martinez, Chief Justice; Liza A. Rodriguez, Justice; Lori I. Valenzuela, Justice
JURISDICTION	Texas
DECIDED	January 25, 2023
DOCKET	No. 04-22-00510-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant failed to timely file his appellate brief and failed to comply with the court's subsequent order requiring the brief and an explanatory written response.
PRECEDENTIAL VALUE	unknown
PARTIES	Richard L. Perez v. Department Stores National Bank, now merged into Citibank, N.A.

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed for want of prosecution when the appellant failed to timely file an appellate brief and failed to comply with an order directing him to file the brief and explain the failure.

HOLDINGS

1. An appeal may be dismissed for want of prosecution when the appellant fails to timely file the required brief and then fails to comply with an appellate court order directing the appellant to file the brief and provide a reasonable explanation for the failure.

KEY QUOTATIONS

“Therefore, we dismiss this appeal for want of prosecution.”

FACTUAL BACKGROUND

Perez was the appellant in an appeal whose brief was due on October 27, 2022. He did not file the brief or request an extension, and he also failed to comply with the appellate court's order requiring the brief and a written explanation for the delay.

PROCEDURAL HISTORY

Perez appealed from the County Court at Law No. 3 of Bexar County, Texas. His appellant's brief was due October 27, 2022, but he filed neither the brief nor a motion for extension. After the appellate court ordered him to file the brief and explain the failure, Perez did not respond, and the court dismissed the appeal for want of prosecution.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas MEMORANDUM OPINION No. 04-22-00510-CV Richard L. PEREZ, Appellant v. DEPARTMENT STORES NATIONAL BANK, now merged into Citibank, N.A., Appellee From the County Court at Law No. 3, Bexar County, Texas Trial Court No. 2020CV05057 Honorable David J. Rodriguez, Judge Presiding PER CURIAM Sitting: Rebeca C. Martinez, Chief Justice Liza A. Rodriguez, Justice Lori I. Valenzuela, Justice Delivered and Filed: January 25, 2023 DISMISSED FOR WANT OF PROSECUTION Appellant Richard Perez’s brief was due on October 27, 2022.

Neither the brief nor a motion for extension of time was filed. We therefore ordered Perez to file, on or before December 13, 2022, his appellant’s brief and a written response reasonably

explaining (1) his failure to timely file the brief and (2) why appellee was not significantly injured by his failure to timely file a brief.

We notified Perez that if he failed to file a brief and the written response by the date ordered, this appeal would be dismissed for want of prosecution. See TEX. R. APP. P. 38.8(a); id. 42.3(b), (c). 04-22-00510-CV Perez failed to respond to our order.

Therefore, we dismiss this appeal for want of prosecution. See id. 42.3(a), (c). Costs of appeal are taxed against Perez. PER CURIAM -2-