

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

Monique Mandell v. Fatima Breland and American National Bank & Trust

No. 14-22-00726-CV (Tex. App.—Houston [14th Dist.] Feb. 14, 2023) · No. 14-22-00726-CV · Decided February 14, 2023

SUMMARY

The Fourteenth Court of Appeals of Texas dismissed the appeal for want of prosecution because the appellant failed to pay or make arrangements to pay for the clerk's record and failed to provide proof of payment. The court also indicated that the motion for rehearing and en banc reconsideration of the denial of the motion to stay was dismissed as moot.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	Justice Jewell; Justice Bourliot; Justice Zimmerer
JURISDICTION	Texas
DECIDED	February 14, 2023
DOCKET	14-22-00726-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from an order signed October 10, 2022; the court dismissed the appeal for want of prosecution after appellant failed to pay or arrange payment for the clerk's record and failed to provide proof of payment.
PRECEDENTIAL VALUE	Unclear from the opinion text; the opinion is identified as a memorandum opinion and no reporter citation appears.
PARTIES	Monique Mandell v. Fatima Breland, American National Bank & Trust

TOPICS

[appellate procedure](#) [probate procedure](#) [civil procedure](#)

PRACTICE AREAS

[Appellate procedure](#) [Probate](#)

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed for want of prosecution when the appellant failed to pay or arrange payment for the clerk's record and failed to provide proof of payment after notice and an order requiring compliance.

HOLDINGS

1. An appeal may be dismissed for want of prosecution when the appellant fails, after notice and a court order, to pay or make arrangements to pay for the clerk's record and to provide proof of payment.

FACTUAL BACKGROUND

The appellant failed to make arrangements to pay for the clerk's record in the appeal. Despite repeated notices of the court's intent to dismiss and a subsequent order requiring proof of payment or payment arrangements, appellant did not provide the required proof.

PROCEDURAL HISTORY

Mandell appealed an October 10, 2022 order from Probate Court No. 3 of Harris County. No clerk's record was filed because appellant did not make arrangements to pay for it. After multiple notices and an order directing appellant to provide proof of payment, appellant failed to provide the required proof, and the court dismissed the appeal. The motion for rehearing and en banc reconsideration of the denial of the motion to stay was dismissed as moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Motion for Rehearing and En Banc Reconsideration of Denial of Motion to Stay Dismissed as Moot; Appeal Dismissed and Memorandum Opinion filed February 14, 2023 In The Fourteenth Court of Appeals NO. 14-22-00726-CV MONIQUE MANDELL, Appellant V. FATIMA BRELAND AND AMERICAN NATIONAL BANK & TRUST, Appellees On Appeal from Probate Court No. 3 Harris County, Texas Trial Court Cause No. 504405 MEMORANDUM OPINION This appeal is from an order signed October 10, 2022.

No clerk's record has been filed. The clerk responsible for preparing the record in this appeal informed the court appellant did not make arrangements to pay for the record. On October 25, 2022, notification was transmitted to all parties of the court's intention to dismiss the appeal for want of prosecution unless, within fifteen days, appellant paid or made arrangements to pay for the record and provided this court with proof of payment.

See Tex. R. App. P. 37.3(b). No response to the notice was filed. On November 17, 2022, appellant was ordered to provide this court with proof of payment for the record on or before November 28, 2020. See Tex. R. App. P. 35.3(c).

In the order, the court notified appellant that failure to comply with the court's order would result in dismissal of the appeal. See Tex. R. App. P. 37.3(b). A response, but no proof of payment or payment arrangements was filed December 5, 2022.

On December 22, 2022, notification was again transmitted to all parties of the court's intention to dismiss the appeal for want of prosecution unless, within fifteen days, appellant paid or made arrangements to pay for the record and provided this court with proof of payment. See Tex. R. App. P. 37.3(b).

On January 3 and 17, 2023, the county clerk notified this court, and copied appellant's counsel, of the outstanding balance for the clerk's record. As of this date, appellant has not provided this court with proof of payment for the record.

We dismiss the appeal. PER CURIAM Panel consists of Justices Jewell, Bourliot, and Zimmerer. 2