

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Maria De La Fuente v. The Bank of New York Mellon Trust Company, N.A., as Trustee on Behalf of CWABS Inc., Asset-Backed Certificates Trust 2006-2 by Green Tree Servicing LLC

No. 05-15-00559-CV (Tex. App.—Dallas Aug. 10, 2015) · No. No. 05-15-00559-CV · Decided August 11, 2015

SUMMARY

The Texas Fifth District Court of Appeals dismissed Maria De La Fuente’s appeal because she failed to pay the filing fee, file the required docketing statement, or provide documentation regarding payment for the clerk’s record. The court ordered the appellee to recover its appellate costs from the appellant.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	David J. Schenck; Justice Bridges; Justice Lang; Justice Schenck
JURISDICTION	Texas
DECIDED	August 11, 2015
DOCKET	No. 05-15-00559-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant's civil appeal was dismissed after appellant failed to pay the filing fee, file a docketing statement, or provide documentation concerning payment for the clerk's record despite repeated notices and warnings.
PRECEDENTIAL VALUE	published
PARTIES	Maria De La Fuente v. The Bank of New York Mellon Trust Company, N.A., as Trustee on Behalf of CWABS Inc., Asset-Backed Certificates Trust 2006-2 by Green Tree Servicing LLC

TOPICS

appellate procedure

costs

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed because appellant failed to pay the filing fee, file the required docketing statement, and provide documentation concerning payment for or waiver of costs for the clerk's record after receiving notice and warnings.

HOLDINGS

1. An appeal may be dismissed when the appellant fails, after notice and warning, to pay the filing fee, file the required docketing statement, and provide the documentation necessary to obtain the clerk's record.

FACTUAL BACKGROUND

The appellate filing fee, docketing statement, and clerk's record were not timely filed or obtained. The court sent multiple notices directing appellant to pay the filing fee, file the docketing statement, and provide verification of payment or arrangements for the clerk's record, or documentation establishing entitlement to proceed without payment of costs. Appellant failed to comply with any of those directives and did not otherwise correspond with the court regarding the clerk's record.

PROCEDURAL HISTORY

The appeal was taken from the County Court at Law No. 1 of Dallas County, Texas, in trial court cause number CC-15-01366-A. The court of appeals notified appellant that the filing fee and docketing statement were past due and later directed appellant to address payment or waiver of costs for the clerk's record. After appellant failed to comply or otherwise communicate with the court, the court dismissed the appeal and taxed appellate costs against appellant.

DISPOSITION

dismissed