

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

Crystal R. Davis v. Little Nell Apartments

Davis v. Little Nell Apartments · No. 14-14-00506-CV · Decided August 14, 2014

OPINION

PER CURIAM.

Order filed August 14, 2014 In The Fourteenth Court of Appeals NO. 14-14-00506-CV CRYSTAL R. DAVIS, Appellant V. LITTLE NELL APARTMENTS, Appellee On Appeal from the County Civil Court at Law No. 4 Harris County, Texas Trial Court Cause No. 1047273 ORDER On July 16, 2014, appellant, who is appearing pro se, filed a timely motion in this court challenging the trial court's July 8, 2014, ruling sustaining a contest to her affidavit of indigence.

See Tex. R. App. P. 20.1(j)(1), (2). When a motion to review the trial court's ruling on indigence is filed, the trial court clerk and the court reporter must prepare, certify, and file the record of the hearing on the contest to the claim of indigence within three days after the motion is filed. See Tex. R. App. P. 20.1(j)(3).

The county clerk prepared a clerk's record, but no reporter's record of the hearing has been filed. Under the unambiguous language of Rule 20.1(j), if the appellate court does not deny a motion under Rule 20.1(j) within 10 days after the motion is filed, this motion is granted by operation of law. Tex. R. App. P. 20.1(j)(4). Even if the trial court clerk and the court reporter prepare, certify, and file the hearing record within three days after the motion is filed, the appellate court has less than a week to review the record and rule on the merits of the motion.

If the court reporter does not file the hearing record within 10 days after the filing of the motion, as in this case, this court has no ability to review the merits of the motion, and the motion is granted by operation of law regardless of whether the motion has merit. Tex. R. App. P. 20.1(j)(4). This new rule places a heavy burden on the trial court clerk and the court reporter to act expeditiously in preparing, certifying, and filing the hearing record.

If they fail to do so, then under the applicable procedure, this court has no ability to review the merits of the motion. More than 10 days have passed since the motion was filed and appellant's motion was granted by operation of law.

Accordingly, appellant may proceed on appeal without the advance payment of costs. Therefore, we ORDER the Harris County Clerk and the official court reporter, Karen S. Bernhardt, to prepare, certify, and file the appellate record without the advance payment of costs. See Tex. R. App. P. 20.1(k).

The record will be due in this court 30 days from the date of this order. PER CURIAM

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