

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Kathleen Spangler, Individually and Jeffery Spangler, Individually and as Next Friend of J.S., a Child v. Auto-Chlor Services, LLC and Josue Molina, Individually

No. 05-22-01274-CV (Tex. App.—Dallas May 24, 2023) · No. No. 05-22-01274-CV · Decided May 24, 2023

SUMMARY

The Fifth District Court of Appeals at Dallas dismissed the appeal for failure to file the clerk’s record or provide proof of payment or arrangements to pay for it. The dismissal was entered under Texas Rules of Appellate Procedure 37.3(b) and 42.3(b), (c), after the appellants failed to comply with the court’s reinstatement order.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Bonnie Lee Goldstein; Carlyle; Goldstein; Kennedy
JURISDICTION	Texas
DECIDED	May 24, 2023
DOCKET	No. 05-22-01274-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed for want of prosecution after appellants failed to file the clerk's record or proof of payment or arrangements to pay for it as ordered.
PRECEDENTIAL VALUE	published
PARTIES	Kathleen Spangler, individually, Jeffery Spangler, individually and as next friend of J.S., a child v. Auto-Chlor Services, LLC, Josue Molina, individually

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the appeal should be dismissed when appellants failed to comply with the court's order to file proof of payment or arrangements to pay for the clerk's record.

HOLDINGS

1. An appeal may be dismissed when appellants fail to comply with an order requiring proof of payment or arrangements to pay for the clerk's record after being warned that noncompliance would result in dismissal.

KEY QUOTATIONS

“To date, the clerk’s record has not been filed, appellants have not filed proof of payment or arrangements to pay for the clerk’s record as directed, nor have appellants corresponded with the Court regarding the status of this appeal.”

FACTUAL BACKGROUND

The clerk's record had not been filed in the appeal. After reinstatement, appellants failed to file proof that they had paid or arranged to pay for the clerk's record and did not correspond with the appellate court about the appeal's status.

PROCEDURAL HISTORY

The court initially dismissed the appeal for want of prosecution on February 3, 2023, then reinstated it on March 28, 2023. In the reinstatement order, the court directed appellants to file proof of payment or arrangements to pay for the clerk's record within ten days and warned that noncompliance would result in dismissal. Appellants did not comply or communicate with the court, so the court dismissed the appeal.

DISPOSITION

dismissed