

FOURTEENTH COURT OF APPEALS OF TEXAS

Scwyana Smith v. Ankus, L.L.C.

No. 14-21-00468-CV · No. 14-21-00468-CV · Decided September 1, 2022

SUMMARY

The Fourteenth Court of Appeals of Texas ordered the trial court to conduct a hearing under Texas Rule of Civil Procedure 145(i) to determine which portions of the record should be transcribed for an appellant proceeding without payment of costs. The appeal was abated, treated as closed, and removed from the court's active docket pending the trial court's written findings and supplemental records.

CASE DETAILS

COURT	Fourteenth Court of Appeals of Texas
WRITING FOR THE COURT	Per Curiam; Chief Justice Christopher; Justice Wise; Justice Hassan
JURISDICTION	Texas
DECIDED	September 1, 2022
DOCKET	14-21-00468-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appellate order abating an appeal because no reporter's record had been filed and directing the trial court to conduct a hearing to designate the portions of the record to be transcribed for an indigent appellant.
PRECEDENTIAL VALUE	Published
PARTIES	Scwyana Smith v. Ankus, L.L.C.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. What procedure must the trial court follow when an appellant proceeding without payment of costs seeks a reporter's record under Texas Rule of Civil Procedure 145(i)?

2. Whether the appeal should remain on the appellate court's active docket while the trial court determines which portions of the record must be transcribed.

HOLDINGS

1. Under Texas Rule of Civil Procedure 145(i), the trial court must conduct a hearing and designate in writing the portions of the record to be transcribed when a declarant is proceeding without payment of costs.
2. The appeal should be abated, treated as a closed case, and removed from the appellate court's active docket until the trial court's findings and recommendations are filed or the appeal is otherwise reinstated.

KEY QUOTATIONS

“when a declarant is proceeding without payment of costs, “the court must designate the portions to be transcribed.””

FACTUAL BACKGROUND

Smith was proceeding on appeal without payment of costs. No reporter's record had been filed, and the clerk's record did not reflect that Smith had filed a request for a court reporter's record. The court reporter provided the appellate court with an uncertified copy of a document in which Smith requested portions of the record. The trial court had not entered findings concerning the record to be transcribed.

PROCEDURAL HISTORY

Smith appealed from the 113th District Court of Harris County while proceeding without payment of costs. No reporter's record had been filed, and the clerk's record did not show that Smith had properly requested one. After receiving an uncertified copy of a record request, the court of appeals ordered the trial court to conduct a hearing under Texas Rule of Civil Procedure 145(i). The trial court responded that there was no order regarding findings of fact and conclusions of law and no request for findings, so the appellate court issued this order directing a hearing, written findings, and supplemental records.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court must conduct a hearing with 10 days' notice to the parties and court reporter to determine what portions of the record are to be transcribed; reduce its findings to writing; and cause a supplemental clerk's record containing those findings and a supplemental reporter's record from the hearing to be filed with the court of appeals by October 3, 2022. The appeal is abated, treated as a closed case, and removed from the active docket, subject to reinstatement upon filing of the findings and recommendations or an appropriate motion or the court's own motion.

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