

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

Estate of Manuel G. Flores

No. 04-18-00902-CV (Tex. App.—San Antonio Dec. 13, 2018) · No. 04-18-00902-CV · Decided December 13, 2018

SUMMARY

The Fourth Court of Appeals of San Antonio ordered the appellant in an estate appeal to file an overdue docketing statement by December 27, 2018. The court also ordered the appellant to pay the required filing fee or submit proof of indigency or another applicable exemption, warning that failure to comply could result in dismissal.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Irene Rios
JURISDICTION	Texas
DECIDED	December 13, 2018
DOCKET	04-18-00902-CV
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an appellate order directing the appellant to file a required docketing statement and either pay the appellate filing fee or provide proof of indigency or other exemption.
PRECEDENTIAL VALUE	published status indicated in supplied metadata; opinion text contains a per curiam appellate order
PARTIES	Estate of Manuel G. Flores, Deceased

TOPICS

probate procedure appellate procedure costs civil procedure

PRACTICE AREAS

probate appellate procedure civil procedure

QUESTIONS PRESENTED

1. Whether the appellant should be ordered to file the overdue docketing statement.

2. Whether the appellant should be ordered to pay the appellate filing fee or provide proof of indigency or another applicable exemption.
3. Whether failure to comply with those orders may result in dismissal of the appeal.

HOLDINGS

1. The court ordered appellant to file the overdue docketing statement by December 27, 2018.
2. The court ordered appellant, by December 27, 2018, either to pay the \$205 filing fee or provide written proof of indigency or another statutory or rule-based exemption.
3. If appellant failed to respond satisfactorily by the ordered deadline, the appeal could be dismissed without further notice.

KEY QUOTATIONS

“If appellant fails to respond satisfactorily within the time ordered, this appeal will be dismissed without further notice.”

FACTUAL BACKGROUND

The appeal had been filed from a Bandera County probate proceeding. The appellant had not filed the required docketing statement by the deadline and had not paid the \$205 appellate filing fee. The appellant also had not filed a sworn statement of inability to afford court costs.

PROCEDURAL HISTORY

The appeal was filed from the County Court of Bandera County, Texas, in trial court cause number 17-0030. The docketing statement and the required \$205 filing fee were overdue, and the appellant had not submitted a sworn statement of inability to pay. The court ordered compliance by December 27, 2018 and warned that failure to respond satisfactorily could result in dismissal without further notice.

DISPOSITION

other

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas December 13, 2018 No. 04-18-00902-CV ESTATE OF MANUEL G. FLORES, DECEASED, From the County Court, Bandera County, Texas Trial Court No. 17-0030 Honorable Richard A. Evans, Judge Presiding ORDER The docketing statement was due December 10, 2018, but has not been filed. See Tex. R. Civ. P. 32.1(a) (providing an appellant in a civil case shall file a docketing statement promptly upon filing the notice of appeal).

We ORDER appellant to file the docketing statement on or before December 27, 2018. Furthermore, a filing fee of \$205 was due when this appeal was filed, but it was not paid. See TEXAS SUPREME COURT ORDER REGARDING FEES CHARGED IN THE SUPREME COURT, IN CIVIL CASES IN THE COURTS OF APPEALS, AND BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (Aug. 28, 2015).

The clerk of the court notified appellant of this deficiency by letter dated November 28, 2018, and requested payment of the fee by December 10, 2018. The fee remains unpaid, and appellant has not filed a sworn statement of inability to afford payment of court costs.

We therefore ORDER that appellant, on or before December 27, 2018, must either: (1) pay the filing fee; or (2) provide written proof to this court that he is indigent or otherwise excused by statute or the Texas Rules of Appellate Procedure from paying the fee. See TEX. R. APP. P. 20.1 (providing that indigent party who complies with provisions of that rule may proceed without advance payment of costs).

If appellant fails to respond satisfactorily within the time ordered, this appeal will be dismissed without further notice. See TEX. R. APP. P. 5 (providing that an appellate court may enforce rule requiring payment of costs “by any order that is just”); R. 42.3 (permitting appellate courts to dismiss an appeal when appellant fails to comply with a court order).

Irene Rios, Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 13th day of December, 2018.

KEITH E. HOTTLE, Clerk of Court