

FOURTH COURT OF APPEALS OF TEXAS

In the Matter of the Guardianship of Carlos Y. Benavides, Jr., an Incapacitated Person

No. 04-20-00598-CV · No. 04-20-00598-CV · Decided July 16, 2021

SUMMARY

The Fourth Court of Appeals of San Antonio grants the appellant's fourth motion for an extension of time to file an appellate brief in a guardianship matter. The court permits the extension through July 16, 2021, denies any further extensions, and warns that failure to file the brief may result in dismissal of the appeal.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas
WRITING FOR THE COURT	Patricia O. Alvarez
JURISDICTION	Texas
DECIDED	July 16, 2021
DOCKET	04-20-00598-CV
DISPOSITION	other
PROCEDURAL POSTURE	During a pending appeal from a guardianship proceeding, Appellant moved for a fourth extension of time to file the appellate brief.
PRECEDENTIAL VALUE	Published procedural order; no merits determination is made in the source text.
PARTIES	Appellant

TOPICS

[appellate procedure](#)[guardianship procedure](#)[guardianships](#)[probate procedure](#)

PRACTICE AREAS

[Appellate procedure](#)[Guardianship](#)

QUESTIONS PRESENTED

1. Whether Appellant had shown reasonable grounds under Texas Rule of Appellate Procedure 10.5(b) for a fourth extension of the deadline to file the appellate brief.

2. What consequence would follow if Appellant failed to file the brief by the extended deadline.

HOLDINGS

1. The court granted Appellant's unopposed motion for an extension of time through July 16, 2021, concluding that counsel's explanation of a recent heavy workload reasonably justified the requested extension.
2. If Appellant failed to file the brief by July 16, 2021, the court could dismiss the appeal.

KEY QUOTATIONS

“Appellant’s motion is GRANTED. Appellant’s brief must be filed with this court not later than July 16, 2021.” (Order)

“NO FURTHER EXTENSIONS OF TIME TO FILE APPELLANT’S BRIEF WILL BE GRANTED.” (Order)

FACTUAL BACKGROUND

This was a procedural order in a pending guardianship appeal. Appellant's brief was initially due April 12, 2021, and the court had already granted three extensions. Appellant's counsel cited a recent heavy workload in support of an unopposed fourth extension through July 16, 2021.

PROCEDURAL HISTORY

The appeal arose from County Court at Law No. 1 of Webb County, Texas, trial court cause number 2011-PB6-000081-L2. The appellate court had previously granted three extensions, extending the briefing deadline to July 12, 2021. Appellant then filed an unopposed fourth motion seeking an extension through July 16, 2021, which the court granted while warning that no further extensions would be granted.

DISPOSITION

other

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas July 16, 2021 No. 04-20-00598-CV IN THE MATTER OF THE GUARDIANSHIP OF CARLOS Y. BENAVIDES, JR., AN INCAPACITATED PERSON, From the County Court At Law No 1, Webb County, Texas Trial Court No. 2011-PB6–000081-L2 Honorable Hugo Martinez, Judge Presiding ORDER Appellant’s brief was originally due to be filed on April 12, 2021.

This court granted Appellant’s first, second, and third motions for extension of time to file the brief until July 12, 2021. In our June 24, 2021 order, we warned Appellant that any further request for an extension of time to file the brief would be disfavored.

On July 12, 2021, Appellant's counsel filed an unopposed fourth motion for extension of time to file the brief until July 16, 2021, for a total extension of 95 days. In the motion, counsel described his recent heavy workload.

As an unopposed motion, counsel's explanation is reasonable to justify a further extension up to, but not further than, the requested date. See TEX. R. APP. P. 10.5(b). Appellant's motion is GRANTED. Appellant's brief must be filed with this court not later than July 16, 2021. See TEX. R. APP. P. 38.6(d). NO FURTHER EXTENSIONS OF TIME TO FILE APPELLANT'S BRIEF WILL BE GRANTED.

If Appellant fails to file the brief as ordered, the court may dismiss this appeal. See id. R. 38.8(a)(1), 42.3(b), (c). _____ Patricia O. Alvarez, Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 16th day of July, 2021. _____ MICHAEL A. CRUZ, Clerk of Court