

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Jared Walter Adair v. Ricky's Enterprise, Inc.

No. 01-22-00359-CV · No. No. 01-22-00359-CV · Decided July 13, 2023

SUMMARY

The First Court of Appeals of Texas dismissed Jared Walter Adair’s appeal for want of prosecution because he failed to file a corrected appellate brief after the court struck his original brief and issued multiple notices. The court also dismissed any pending motions as moot.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Justice Goodman; Justice Landau; Justice Rivas-Molloy
JURISDICTION	Texas
DECIDED	July 13, 2023
DOCKET	No. 01-22-00359-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed for want of prosecution after the appellant failed to file a corrected appellate brief or respond to the court's notice that the brief was overdue.
PRECEDENTIAL VALUE	published
PARTIES	Jared Walter Adair v. Ricky's Enterprise, Inc.

TOPICS

[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

[Appellate procedure](#)[Civil procedure](#)

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed for want of prosecution because the appellant failed to file a required appellate brief and failed to respond to the court's notice.

HOLDINGS

1. An appeal may be dismissed for want of prosecution when the appellant fails to file the required brief after notice and an opportunity to cure the deficiency.
2. Pending motions are dismissed as moot when the appeal itself is dismissed.

FACTUAL BACKGROUND

The appellant filed an appellate brief that failed to comply with the Texas Rules of Appellate Procedure. After the court struck the brief and gave him additional time to file a corrected brief, he failed to do so. He also failed to respond to the clerk's notice that the brief was overdue and that the appeal was subject to dismissal.

PROCEDURAL HISTORY

Adair filed an appellate brief on August 26, 2022, but the court struck it on September 1, 2022 for failure to comply with the Texas Rules of Appellate Procedure. The court directed him to file a corrected brief, later notified him that the brief was past due and that the appeal was subject to dismissal, and instructed him to file the brief and an extension motion within ten days. Adair did not comply or respond, so the court dismissed the appeal and dismissed pending motions as moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Opinion issued July 13, 2023 In The Court of Appeals For The First District of Texas NO. 01-22-00359-CV JARED WALTER ADAIR, Appellant V. RICKY'S ENTERPRISE, INC., Appellee On Appeal from County Court at Law No. 4 Harris County, Texas Trial Court Case No. 1181899 MEMORANDUM OPINION On August 26, 2022, Appellant Jared Walter Adair filed an appellate brief, which we subsequently struck on September 1, 2022 for failure to comply with the Texas Rules of Appellate Procedure.

We directed Appellant to file a corrected brief by October 3, 2022, however, he did not. On December 19, 2022, the Clerk of this Court notified Appellant that his appellate brief was past due, and his appeal was subject to dismissal. See TEX. R. APP. P. 38.8(a), 42.3(b), 43.2(f).

We directed Appellant to file his brief and a motion requesting an extension to file the brief within 10 days of our notice. Appellant did not respond. See TEX. R. APP. P. 42.3(b), (c). We dismiss the appeal for want of prosecution for failure to file a brief. See TEX. R. APP. P. 38.8(a), 42.3(b), 43.2(f).

We dismiss any pending motions as moot. PER CURIAM Panel consists of Justices Goodman, Landau, and Rivas-Molloy. 2

