

COURT OF APPEALS OF TEXAS, TWELFTH COURT OF APPEALS
DISTRICT, TYLER

Debra Jane Huett v. Charles Hodges, Hodges Surveying, William Pemberton, John L. Billingsley Logging, LLC, John L. Billingsley Trucking, LLC, John L. Billingsley Investment, LLC, John L. Billingsley, Joe Billingsley, Les Chambers, Martha Mingle-Ho, Tim Norland, Ray Neuer, Joe Garnett, Houston County, Texas, Sheehy, Serpe and Ware, PC, Mark Calhoon, Jerry Calhoon, Marilyn Roaf, John Ovard, George Cowart, Sandy Hughes, Carolyn Rains, Angela Dion, and Patty George

No. 12-09-00407-CV · No. No. 12-09-00407-CV · Decided December 16, 2009

SUMMARY

The Texas Court of Appeals, Twelfth District, dismissed Debra Jane Huett's appeal for failure to comply with the Texas Rules of Appellate Procedure. Huett failed to provide proof of payment for preparation of the clerk's record after receiving notice and an opportunity to comply.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth Court of Appeals District, Tyler
WRITING FOR THE COURT	Per Curiam; Worthen, C.J.; Griffith, J.; Hoyle, J.
JURISDICTION	Texas
DECIDED	December 16, 2009
DOCKET	No. 12-09-00407-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed after the appellant failed to provide proof of payment of the required clerk's-record preparation fee or otherwise respond to the court's notice.
PRECEDENTIAL VALUE	Published opinion; marked PUBLISH
PARTIES	Debra Jane Huett v. Charles Hodges, Hodges Surveying, William Pemberton, John L. Billingsley Logging, LLC, John L. Billingsley Trucking, LLC, John L. Billingsley Investment, LLC, John L.

Billingsley, Joe Billingsley, Les Chambers, Martha Mingle-Ho, Tim Norland, Ray Neuer, Joe Garnett, Houston County, Texas, Sheehy, Serpe and Ware, PC, Mark Calhoon, Jerry Calhoon, Marilyn Roaf, John Ovard, George Cowart, Sandy Hughes, Carolyn Rains, Angela Dion, Patty George

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed under Texas Rule of Appellate Procedure 42.3(c) because, after notice, the appellant failed to comply with the court's request concerning preparation and filing of the clerk's record.

HOLDINGS

1. An appeal may be dismissed under Texas Rule of Appellate Procedure 42.3(c) when the appellant, after notice, fails to comply with the court's request to provide proof of payment of the required clerk's-record preparation fee or otherwise respond.

KEY QUOTATIONS

"Because Huett has failed, after notice, to comply with this court's notice, the appeal is dismissed."

FACTUAL BACKGROUND

The clerk's record in the appeal could not be filed by the deadline because the required preparation fee had not been paid. After being notified of the payment issue and given a deadline to provide proof of payment, Huett neither supplied the proof nor otherwise responded.

PROCEDURAL HISTORY

The clerk's record was due on December 4, 2009. The district clerk requested an extension because the required preparation fee had not been paid, and the appellate court notified Huett that the appeal would be presented for dismissal unless proof of full payment was provided by December 14, 2009. Huett did not comply or otherwise respond, so the court dismissed the appeal under Texas Rule of Appellate Procedure 42.3(c).

DISPOSITION

dismissed

OPINION

PER CURIAM.

NO NO. 12-09-00407-CV IN THE COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS DEBRA JANE HUETT, ' APPEAL FROM THE 3RD APPELLANT V. ' JUDICIAL DISTRICT COURT OF CHARLES HODGES, HODGES SURVEYING, WILLIAM PEMBERTON, JOHN L. BILLINGSLEY LOGGING, LLC, JOHN L. BILLINGSLEY TRUCKING, LLC, JOHN L. BILLINGSLEY INVESTMENT, LLC, JOHN L. BILLINGSLEY, JOE BILLINGSLEY, LES CHAMBERS, MARTHA MINGLE-HO, TIM NORLAND, RAY NEUER, JOE GARNETT, ' HOUSTON COUNTY, TEXAS SHEEHY, SERPE AND WARE, PC, MARK CALHOON, JERRY CALHOON, MARILYN ROAF, JOHN OVARD, GEORGE COWART, SANDY HUGHES, CAROLYN RAINS, ANGELA DION AND PATTY GEORGE, APPELLEES MEMORANDUM OPINION PER CURIAM This appeal is being dismissed for failure to comply with the Texas Rules of Appellate Procedure.

See Tex. R. App. P. 42.3. The clerk's record in this appeal was due to have been filed on or before December 4, 2009. On December 2, 2009, Huett was notified that the district clerk had requested an extension of time for filing the clerk's record stating that the reason for the delay was due to nonpayment of the required preparation fee. Huett was informed that the appeal would be presented to the court for dismissal unless proof of full payment to the clerk was provided to this court no later than December 14, 2009.

The date for providing proof of payment for the clerk's record has passed, and Huett has not complied with the court's request or otherwise responded to this court's December 2, 2009 notice. Because Huett has failed, after notice, to comply with this court's notice, the appeal is dismissed. See Tex. R. App. P. 42.3(c). Opinion delivered December 16, 2009. Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J. (PUBLISH)