

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Nycole Harris v. Department of Family and Protective Service

Harris · No. 01-10-00838-CV · Decided April 21, 2011

SUMMARY

The First Court of Appeals of Texas dismissed Nycole Harris’s appeal for failure to establish indigence or pay the required appellate fees. 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	Chief Justice Radack; Justice Alcala; Justice Bland
JURISDICTION	Texas
DECIDED	April 21, 2011
DOCKET	01-10-00838-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed for failure to establish indigence or pay all required appellate fees after notice that the appeal was subject to dismissal.
PRECEDENTIAL VALUE	published
PARTIES	Nycole Harris v. Department of Family and Protective Service

TOPICS

appellate procedure costs civil procedure family law procedure

PRACTICE AREAS

Appellate procedure Civil procedure Family law

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed because the appellant failed to establish indigence or pay all required appellate fees.

HOLDINGS

1. An appeal may be involuntarily dismissed when the appellant neither establishes indigence nor pays all required fees and fails to adequately respond after notice that the appeal is subject to dismissal.

KEY QUOTATIONS

“We dismiss the appeal for nonpayment of all required fees.”

“We dismiss any pending motions as moot.”

FACTUAL BACKGROUND

The appellant did not establish indigence under the applicable appellate rules and did not pay all required fees for the civil appeal. After receiving notice that the appeal could be dismissed, she did not adequately respond. The appellate court therefore dismissed the appeal for nonpayment of required fees.

PROCEDURAL HISTORY

Nycole Harris appealed from the 313th District Court of Harris County, Texas. The court of appeals determined that Harris had neither established indigence nor paid all required fees, and that her response to the dismissal notice was inadequate. The court dismissed the appeal and dismissed pending motions as moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Opinion issued April 21, 2011 In The Court of Appeals For The First District of Texas NO. 01-10-00838-CV NYKOLE HARRIS, Appellant V. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICE, Appellee On Appeal from the 313th District Court Harris County, Texas Trial Court Cause No. 2008-10200J MEMORANDUM OPINION Appellant, Nycole Harris, has neither established indigence, nor paid all the required fees.

See Tex. R. App. P. 5 (requiring payment of fees in civil cases unless indigent), 20.1 (listing requirements for establishing indigence); see also Tex. Gov’t Code Ann. §§ 51.207, 51.941(a) (Vernon 2005), § 101.041 (Vernon Supp. 2010) (listing fees in court of appeals); Order Regarding Fees Charged in Civil Cases in the Supreme Court and the Courts of Appeals and Before the Judicial Panel on Multidistrict Litigation, Misc.

Docket No. 07-9138 (Tex. Aug. 28, 2007), reprinted in Tex. R. App. P. app. A § B(1) (listing fees in court of appeals). After being notified that this appeal was subject to dismissal, appellant did not adequately respond. See Tex. R. App. P. 5 (allowing enforcement of rule); 42.3(c) (allowing involuntary dismissal of case).

We dismiss the appeal for nonpayment of all required fees. We dismiss any pending motions as moot. PER CURIAM Panel consists of Chief Justice Radack and Justices Alcala and Bland.

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