

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Dominique Cunningham v. Harris County Justice of the Peace Honorable Judge Steve Duple

No. 01-25-00350-CV · No. No. 01-25-00350-CV · Decided April 7, 2026

SUMMARY

The Texas First Court of Appeals dismissed Dominique Cunningham’s pro se appeal after striking her corrected appellant’s brief for failing to comply with multiple Texas Rules of Appellate Procedure requirements. The court dismissed the appeal for want of prosecution and dismissed pending motions as moot.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Chief Justice Adams; Justice Guerra; Justice Guiney
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	April 7, 2026
DOCKET	No. 01-25-00350-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Cunningham appealed the trial court's dismissal of her suit for lack of jurisdiction. After the court of appeals struck her initial and amended briefs and allowed her an opportunity to file a corrected brief, it struck the corrected brief for continued noncompliance with the Texas Rules of Appellate Procedure and dismissed the appeal.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; precedential value not established in the provided text.
PARTIES	Dominique Cunningham v. Harris County Justice of the Peace Honorable Judge Steve Duple

TOPICS

- appellate procedure
- civil procedure
- sanctions

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the court of appeals could strike Cunningham's corrected appellant's brief because it failed to comply with the Texas Rules of Appellate Procedure.
2. Whether the court of appeals could dismiss the appeal for want of prosecution after striking the noncompliant corrected brief.

HOLDINGS

1. A pro se litigant is held to the same procedural standard as a licensed attorney and must comply with the Texas Rules of Appellate Procedure.
2. When an appellant files a noncompliant brief and then files a corrected or amended brief that also fails to comply with the appellate rules, the court may strike the corrected brief, prohibit another brief, and proceed as though the appellant failed to file a brief.
3. The court may dismiss an appeal for want of prosecution when, after the appellant's noncompliant corrected brief is stricken, the appellant is treated as having failed to file an appellant's brief.

KEY QUOTATIONS

“An appellate brief is meant to acquaint the court with the issues in a case and to present argument that will enable the court to decide the case.” (at 4)

“Accordingly, we strike Cunningham’s March 16, 2026 corrected appellant’s brief, and we dismiss the appeal.” (at 8)

FACTUAL BACKGROUND

Cunningham, proceeding pro se, challenged a trial-court order dismissing her suit against a Harris County justice of the peace for lack of jurisdiction. Her original, amended, and corrected appellate briefs failed to comply with multiple requirements governing the contents, organization, factual presentation, issues, argument, citations, and appendix. After receiving notice of the deficiencies and an opportunity to file a compliant corrected brief, Cunningham submitted a brief that continued to violate the appellate rules.

PROCEDURAL HISTORY

Cunningham filed suit in the County Civil Court at Law No. 3 of Harris County, Texas. The trial court dismissed the suit for lack of jurisdiction. On appeal, Cunningham filed multiple briefs that failed to comply with the appellate briefing rules. The court of appeals gave her an opportunity to correct the deficiencies, but her corrected brief remained noncompliant, so the court struck it and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Gardner v. Gardner, No. 04-17-00414-CV, 2018 WL 521615, at *1 n.1 (Tex. App.—San Antonio Jan. 24, 2018, pet. denied) (mem. op.)
- Tucker v. Fort Worth & W. R.R. Co., No. 02-19-00221-CV, 2020 WL 3969586, at *1 (Tex. App.—Fort Worth June 18, 2020, pet. denied) (mem. op.)
- Tyurin v. Hirsch & Westheimer, P.C., No. 01-17-00014-CV, 2017 WL 4682191, at *1–2 (Tex. App.—Houston [1st Dist.] Oct. 19, 2017, no pet.) (mem. op.)
- Schied v. Merritt, No. 01-15-00466-CV, 2016 WL 3751619, at *2 (Tex. App.—Houston [1st Dist.] July 12, 2016, no pet.) (mem. op.)
- Lemons v. Garmond, No. 01-15-00570-CV, 2016 WL 4701443, at *1 (Tex. App.—Houston [1st Dist.] Sept. 8, 2016, pet. denied) (mem. op.)
- Irisson v. Lone Star Nat’l Bank, No. 13-19-00239-CV, 2020 WL 6343336, at *3 (Tex. App.—Corpus Christi–Edinburg Oct. 29, 2020, no pet.) (mem. op.)
- M&E Endeavors LLC v. Air Voice Wireless LLC, Nos. 01-18-00852-CV, 01-19-00180-CV, 2020 WL 5047902, at *7 (Tex. App.—Houston [1st Dist.] Aug. 17, 2020, no pet.) (mem. op.)
- Bolling v. Farmers Branch Indep. Sch. Dist., 315 S.W.3d 893, 895 (Tex. App.—Dallas 2010, no pet.)
- Steele v. Humphreys, No. 05-19-00988-CV, 2020 WL 6440499, at *2 (Tex. App.—Dallas Nov. 3, 2020, no pet.) (mem. op.)
- Ex parte Shaffer, 649 S.W.2d 300, 302 (Tex. 1983)
- Mansfield State Bank v. Cohn, 573 S.W.2d 181, 184 (Tex. 1978)
- Yeldell v. Denton Cent. Appraisal Dist., No. 2-07-313-CV, 2008 WL 4053014, at *2 (Tex. App.—Fort Worth Aug. 29, 2008, pet. denied) (mem. op.)
- Garrett v. Lee, No. 01-21-00498-CV, 2021 WL 5702177, at *2–3 (Tex. App.—Houston [1st Dist.] Dec. 2, 2021, pet. denied) (mem. op.)
- Lipscomb v. City of Dall. Police, No. 05-16-01090-CV, 2017 WL 1149674, at *1 (Tex. App.—Dallas Mar. 27, 2017, no pet.) (mem. op.)
- Fredonia State Bank v. Gen. Am. Life Ins. Co., 881 S.W.2d 279, 284 (Tex. 1994)
- Porter v. Kennard Law PC, No. 01-22-00153-CV, 2022 WL 11413164, at *5–6 (Tex. App.—Houston [1st Dist.] Oct. 20, 2022, pet. denied) (mem. op.)
- Golden v. Milstead Towing & Storage, Nos. 09-21-00043-CV to 09-21-00045-CV, 2022 WL 1412303, at *2 (Tex. App.—Beaumont May 5, 2022, no pet.) (mem. op.)
- Serrano v. Francis Props. I, Ltd., 411 S.W.3d 661, 667 (Tex. App.—El Paso 2013, pet. dism’d w.o.j.)
- Demby v. Goldman Sachs Bank USA, No. 01-23-00556-CV, 2024 WL 924514, at *2–3 (Tex. App.—Houston [1st Dist.] Mar. 5, 2024, no pet.) (mem. op.)
- Ligon v. Casey, No. 01-22-00247-CV, 2023 WL 4769533, at *12 n.5 (Tex. App.—Houston [1st Dist.] July 27, 2023, no pet.) (mem. op.)
- Strange v. Cont’l Cas. Co., 126 S.W.3d 676, 678 (Tex. App.—Dallas 2004, pet. denied)

OPINION

PER CURIAM.

Opinion issued April 7, 2026 In The Court of Appeals For The First District of Texas NO. 01-25-00350-CV DOMINIQUE CUNNINGHAM, Appellant V. HARRIS COUNTY JUSTICE OF THE PEACE HONORABLE JUDGE STEVE DUBLE, Appellee On Appeal from the County Civil Court at Law No. 3 Harris County, Texas Trial Court Case No. 1240384 MEMORANDUM OPINION Appellant, Dominique Cunningham, proceeding pro se, challenges the trial court's order dismissing her suit against appellee, Harris County Justice of the Peace Honorable Judge Steve Duble, for lack of jurisdiction.

We dismiss the appeal. On August 1, 2025, Cunningham filed her second amended appellant's brief with this Court.¹ On January 13, 2026, this Court notified Cunningham that her appellant's brief did not comply with the Texas Rules of Appellate Procedure because, among other things, it did not properly identify all parties and counsel; contain an appropriate table of contents; "state concisely the nature of the case," "the course of [the] proceedings," and "the trial court's disposition of the case," "supported by record references"; "state concisely all issues or points presented for review"; "state concisely and without argument the facts pertinent to the issues or points presented," "supported by record references"; "contain a succinct, clear, and accurate statement of the arguments made in the body of the brief"; and "contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." See TEX. R. APP.

P. 38.1(a), (b), (d), (f), (g), (h), (i). Thus, on January 13, 2026, the Court struck Cunningham's August 1, 2025 second amended appellant's brief and ordered her to file a corrected appellant's brief that complied with the Texas Rules of Appellate Procedure within thirty days of the date of the Court's order.

The Court informed Cunningham that if she did not file a ¹ Appellant filed her original appellant's brief on July 18, 2025. Appellant filed a first amended appellant's brief on July 21, 2025, which replaced her original appellant's brief. See, e.g., *Gardner v. Gardner*, No. 04-17-00414-CV, 2018 WL 521615, at *1 n.1 (Tex. App.—San Antonio Jan. 24, 2018, pet. denied) (mem. op.).

Appellant's second amended appellant's brief, filed on August 1, 2025, replaced her first amended appellant's brief. See *id.* ² corrected appellant's brief that complied with the Texas Rules of Appellate Procedure, it would strike her corrected brief, prohibit her from filing another, proceed as if she had failed to file an appellant's brief, and dismiss her appeal.

See TEX. R. APP. P. 38.8(a)(1), 38.9(a), 42.3(b), 43.2(f); see also *Tucker v. Fort Worth & W. R.R. Co.*, No. 02-19-00221-CV, 2020 WL 3969586, at *1 (Tex. App.—Fort Worth June 18, 2020, pet. denied) (mem. op.) (striking amended brief and dismissing appeal for want of prosecution where appellant ordered to file amended brief but amended brief also failed to comply with Texas Rules of Appellate Procedure); *Tyurin v. Hirsch & Westheimer, P.C.*, No. 01-17-00014-CV, 2017 WL 4682191, at *1–2 (Tex.

App.—Houston [1st Dist.] Oct. 19, 2017, no pet.) (mem. op.) (same). On March 16, 2026, Cunningham filed her corrected appellant’s brief.² “An appellate brief is meant to acquaint the court with the issues in a case and to present argument that will enable the court to decide the case.” *Schied v. Merritt*, No. 01-15-00466-CV, 2016 WL 3751619, at *2 (Tex. App.—Houston [1st Dist.]

July 12, 2016, no pet.) (mem. op.) (internal quotations omitted). The Texas Rules of Appellate Procedure control the required contents and organization of an appellant’s brief. *Id.*; see TEX. R. APP. P. 38.1. They contain “specific requirements for briefing that require, among other things, that an appellant provide a statement ² On February 10, 2026, the Court granted Cunningham’s motion for extension of time to file her corrected appellant’s brief and set March 16, 2026 as the deadline for Cunningham to file her corrected brief.

³ of facts, which includes references to the record, and an argument that is clear and concise with appropriate citations to authorities and the record.” *Tyurin*, 2017 WL 4682191, at *1 (internal quotations omitted); *Lemons v. Garmond*, No. 01-15-00570-CV, 2016 WL 4701443, at *1 (Tex. App.—Houston [1st Dist.] Sept. 8, 2016, pet. denied) (mem. op.) (internal quotations omitted); see also TEX. R. APP.

P. 38.1(i); *Irisson v. Lone Star Nat’l Bank*, No. 13-19-00239-CV, 2020 WL 6343336, at *3 (Tex. App.—Corpus Christi–Edinburg Oct. 29, 2020, no pet.) (mem. op.) (“When an appellant’s brief fails to contain a clear and concise argument for the contentions made with appropriate citations to authorities, the appellate court is not responsible for doing the legal research that might support a party’s contentions.”).

The appellate briefing requirements are mandatory. *M&E Endeavors LLC v. Air Voice Wireless LLC*, Nos. 01-18-00852-CV, 01-19-00180-CV, 2020 WL 5047902, at *7 (Tex. App.—Houston [1st Dist.] Aug. 17, 2020, no pet.) (mem. op.). “Only when [the Court is] provided with proper briefing may [it] discharge [its] responsibility to review the appeal and make a decision that disposes of the appeal one way or the other.” *Bolling v. Farmers Branch Indep.*

Sch. Dist., 315 S.W.3d 893, 895 (Tex. App.—Dallas 2010, no pet.); see also *Roberts for Roberts v. City of Texas City*, No. 01-21-00064-CV, 2021 WL 5702464, at *2 (Tex. App.—Houston [1st Dis.] Dec. 2, 2021, no pet.) (mem. op.) (appellate court may not “abandon[] its role as judge and assum[e] the role of advocate for a party”). ⁴ In Texas, an individual who is a party to civil litigation has the right to represent herself at trial and on appeal.

See TEX. R. CIV. P. 7; *Steele v. Humphreys*, No. 05-19-00988-CV, 2020 WL 6440499, at *2 (Tex. App.—Dallas Nov. 3, 2020, no pet.) (mem. op.); *Bolling*, 315 S.W.3d at 895; see also *Ex parte Shaffer*, 649 S.W.2d 300, 302 (Tex. 1983).

The right of self-representation carries with it the responsibility to adhere to the rules of evidence and procedure, including the Texas Rules of Appellate Procedure, if a party chooses to represent herself at the appellate level. Steele, 2020 WL 6440499, at *2; Bolling, 315 S.W.3d at 895; see also Mansfield State Bank v. Cohn, 573 S.W.2d 181, 184 (Tex. 1978) (“[N]o basis exists for differentiating between litigants represented by counsel and litigants not represented by counsel in determining whether the rules of procedure must be followed.”); Yeldell v. Denton Cent.

Appraisal Dist., No. 2-07-313-CV, 2008 WL 4053014, at *2 (Tex. App.—Fort Worth Aug. 29, 2008, pet. denied) (mem. op.) (“On appeal, as at trial, the pro se appellant must properly present her case.”). Thus, a pro se litigant is held to the same standard as a licensed attorney and must comply with the Texas Rules of Appellate Procedure. See Garrett v. Lee, No. 01-21-00498-CV, 2021 WL 5702177, at *2 (Tex.

App.—Houston [1st Dist.] Dec. 2, 2021, pet. denied) (mem. op.); Yeldell, 2008 WL 4053014, at *2 (“[A]ll parties appearing in the appellate courts of Texas must conform to the Texas Rules of Appellate Procedure.”). 5 An appellate court must examine an appellant’s brief for compliance with the Texas Rules of Appellate Procedure. Steele, 2020 WL 6440499, at *2; Lipscomb v. City of Dall.

Police, No. 05-16-01090-CV, 2017 WL 1149674, at *1 (Tex. App.—Dallas Mar. 27, 2017, no pet.) (mem. op.). If the court determines that the briefing rules have been flagrantly violated, it may require a brief to be amended, supplemented, or redrawn. See TEX. R. APP. P. 38.9(a); Irisson, 2020 WL 6343336, at *3; see also Fredonia State Bank v. Gen. Am. Life Ins.

Co., 881 S.W.2d 279, 284 (Tex. 1994). When an appellant is allowed an opportunity to file a corrected appellant’s brief, she is given a reasonable amount of time to do so. See Irisson, 2020 WL 6343336, at *3. If the appellant files another appellant’s brief that does not comply with the Texas Rules of Appellate Procedure, an appellate court may strike the brief, prohibit appellant from filing another, and proceed as if the appellant failed to file a brief.

See TEX. R. APP. P. 38.9(a); Tucker, 2020 WL 3969586, at *1 (striking amended brief and dismissing appeal for want of prosecution where appellant ordered to file amended brief but amended brief still did not comply with Texas Rules of Appellate Procedure); Tyurin, 2017 WL 4682191, at *1–2 (same); see also TEX. R. APP. P. 38.8(a)(1) (where appellant has failed to file brief, appellate court may dismiss appeal for want of prosecution), 42.3(b), 43.2(f).

Although Cunningham was given an opportunity to file a corrected appellant’s brief that complied with the Texas Rules of Appellate Procedure, she has 6 failed to do so. See Garrett, 2021 WL 5702177, at *3 (appellant given opportunity to cure defects in his briefing, but he failed to do so); Steele, 2020 WL 6440499, at *1–3 (same).

On March 16, 2026, Cunningham filed a corrected appellant's brief, but it does not "state concisely the nature of the case," "the course of [the] proceedings," and "the trial court's disposition of the case," "supported by record references" and without a "discuss[ion] [of] the facts"; "state concisely all issues or points presented for review"; "state concisely and without argument the facts pertinent to the issues or points presented," "supported by record references"; "contain a succinct, clear, and accurate statement of the arguments made in the body of the brief"; "contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record"; or contain an appendix.

See TEX. R. APP. P. 38.1(d), (f), (g), (h), (i), (k); Porter v. Kennard Law PC, No. 01-22-00153-CV, 2022 WL 11413164, at *5–6 (Tex. App.—Houston [1st Dist.] Oct. 20, 2022, pet. denied) (mem. op.) (although appellant's corrected brief contained an "argument" section, striking brief because it was "rambling, disjointed,... difficult to follow" and did not "contain succinct, clear, and accurate arguments addressing how [appellant's] purported complaints ha[d] merit" (internal quotations omitted)); Golden v. Milstead Towing & Storage, Nos. 09-21-00043-CV to 09-21-00045-CV, 2022 WL 1412303, at *2 (Tex.

App.—Beaumont May 5, 2022, no pet.) (mem. op.) (appellant's brief did not comply with Texas Rule of Appellate Procedure 38.1(i) where appellant's arguments were confusing); Serrano v. Francis Props. I, Ltd., 411 S.W.3d 661, 667 (Tex. App.—El Paso 2013, pet. dism'd w.o.j.) (appellant's brief did not comply with Texas Rule of Appellate Procedure 38.1(i) where argument section was unclear and "sometimes non-sensical"); see also Demby v. Goldman Sachs Bank USA, No. 01-23-00556-CV, 2024 WL 924514, at *2–3 (Tex.

App.—Houston [1st Dist.] Mar. 5, 2024, no pet.) (mem. op.) (striking appellant's corrected brief and dismissing appeal where appellant's corrected brief, among other things, failed to include appendix with necessary contents); Ligon v. Casey, No. 01-22-00247-CV, 2023 WL 4769533, at *12 n.5 (Tex. App.—Houston [1st Dist.] July 27, 2023, no pet.) (mem. op.) (to comply with Texas Rules of Appellate Procedure, appellant's brief must articulate issues appellant "is asking the appellate court to decide"; "[i]f the appellant does not, there is nothing for [the appellate court] to address").

Cunningham's March 16, 2026 corrected appellant's brief also does not comply with Texas Rule of Appellate Procedure 9.4. See TEX. R. APP. P. 9.4; see also Pathan v. Barboza, No. 01-23-00783-CV, 2024 WL 1774220, at *3 (Tex. App.—Houston [1st Dist.] Apr. 25, 2024, no pet.) (mem. op.); Porter, 2022 WL 11413164, at *5–6 (striking appellant's corrected brief and dismissing appeal where corrected brief, among other things, did not comply with Texas Rule of Appellate Procedure 9.4).

This Court cannot remedy the deficiencies in Cunningham's 8 corrected appellant's brief for her. See Porter, 2022 WL 11413164, at *5–6; Strange v. Cont'l Cas. Co., 126 S.W.3d 676, 678 (Tex.

App.—Dallas 2004, pet. denied). When, as here, an appellant files an appellant’s brief that does not comply with the Texas Rules of Appellate Procedure and then files a corrected brief or amended brief that also does not comply, “the [appellate] court may strike the brief, prohibit the [appellant] from filing another, and proceed as if the [appellant] had failed to file a brief.” TEX. R. APP.

P. 38.9(a); see also Garrett, 2021 WL 5702177, at *3; Tyurin, 2017 WL 4682191, at *2. When an appellant fails to file an appellant’s brief, the Court may dismiss her appeal for want of prosecution. TEX. R. APP. P. 38.8(a)(1); Garrett, 2021 WL 5702177, at *3; Tyurin, 2017 WL 4682191, at *2.

Accordingly, we strike Cunningham’s March 16, 2026 corrected appellant’s brief, and we dismiss the appeal. See TEX. R. APP. P. 38.9(a), 42.3(b), 43.2(f); Garrett, 2021 WL 5702177, at *3; Tyurin, 2017 WL 4682191, at *2.

We dismiss any pending motions as moot. PER CURIAM Panel consists of Chief Justice Adams and Justices Guerra and Guiney. 9