

COURT OF APPEALS OF THE FIFTH DISTRICT OF TEXAS AT DALLAS

**Artemis Sun, Inc., Christopher Thompson and Michael Caolo, Jr. v.
Falcon Green Energy, LLC, Dan Vogler, David M. Cox and Dewey
Vaughn**

No. 05-18-01004-CV (Tex. App.—Dallas Dec. 20, 2018) · No. No. 05-18-01004-CV · Decided December 20, 2018

SUMMARY

The Fifth District Court of Appeals of Texas dismissed the appeal because the appellants failed to pay the filing fee and file the required docketing statement after receiving notice and warnings. The court also noted that the reporter’s record had not been filed because it had not been requested or paid for, and awarded appellate costs to the appellees.

CASE DETAILS

COURT	Court of Appeals of the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Chief Justice Carolyn Wright; Justice Evans; Justice Brown
JURISDICTION	Texas
DECIDED	December 20, 2018
DOCKET	No. 05-18-01004-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal dismissed for appellants' failure to pay the filing fee and file the required docketing statement after receiving notice and warnings from the court.
PRECEDENTIAL VALUE	memorandum opinion; no reporter citation appears in the source
PARTIES	Artemis Sun, Inc., Christopher Thompson, Michael Caolo, Jr. v. Falcon Green Energy, LLC, Dan Vogler, David M. Cox, Dewey Vaughn

TOPICS

appellate procedure

civil procedure

costs

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed because appellants failed to pay the filing fee and file the required docketing statement after notice and warning.

HOLDINGS

1. An appellate court may dismiss an appeal when, after notice and warning, the appellant fails to pay the filing fee and file the required docketing statement.

KEY QUOTATIONS

“Accordingly, we dismiss this appeal.” (2)

FACTUAL BACKGROUND

The filing fee and docketing statement for the appeal were past due. Despite notices and warnings dated August 29, 2018, and a further letter dated October 3, 2018, appellants did not pay the filing fee, file the docketing statement, request or pay for the reporter's record, or otherwise communicate with the court.

PROCEDURAL HISTORY

The appeal was taken from the 191st Judicial District Court of Dallas County, Texas, in trial court cause number DC-12-00663. The court of appeals notified appellants that the filing fee and docketing statement were due and warned that noncompliance could result in dismissal. Appellants neither paid the filing fee nor filed the docketing statement, and the reporter's record was not prepared because the record had not been requested or paid for.

DISPOSITION

dismissed

OPINION

PER CURIAM.

DISMSIS and Opinion Filed December 20, 2018 S In The Court of Appeals Fifth District of Texas at Dallas No. 05-18-01004-CV ARTEMIS SUN, INC., CHRISTOPHER THOMPSON AND MICHAEL CAOLO, JR., Appellants V. FALCON GREEN ENERGY, LLC, DAN VOGLER, DAVID M. COX AND DEWEY VAUGHN, Appellees On Appeal from the 191st Judicial District Court Dallas County, Texas Trial Court Cause No. DC-12-00663 MEMORANDUM OPINION Before Chief Justice Wright, Justice Evans, and Justice Brown Opinion by Chief Justice Wright The filing fee and docketing statement in this case are past due.

By postcard dated August 29, 2018, we notified appellants the \$205 filing fee was due. We directed appellants to remit the filing fee within ten days and expressly cautioned appellants that failure to do so would result in dismissal of the appeal. Also by postcard dated August 29, 2018, we informed appellants the docketing statement in this case was due.

We cautioned appellants that failure to file the docketing statement within ten days might result in the dismissal of this appeal without further notice. By letter dated October 3, 2018, we informed appellants the reporter's record had not been filed because appellant had not requested or paid for the reporter's record.

To date, appellant has not paid the filing fee, filed the docketing statement, or otherwise corresponded with the Court regarding the status of this appeal. Accordingly, we dismiss this appeal. See TEX. R. APP. P. 42.3(b), (c). /Carolyn Wright/ CAROLYN WRIGHT CHIEF JUSTICE 181004F.P05 -2- S Court of Appeals Fifth District of Texas at Dallas JUDGMENT ARTEMIS SUN, INC., CHRISTOPHER On Appeal from the 191st Judicial District THOMPSON AND MICHAEL CAOLO, Court, Dallas County, Texas JR., Appellants Trial Court Cause No. DC-12-00663.

Opinion delivered by Chief Justice Wright. No. 05-18-01004-CV V. Justices Evans and Brown participating. FALCON GREEN ENERGY, LLC, DAN VOGLER, DAVID M. COX AND DEWEY VAUGHN, Appellees In accordance with this Court's opinion of this date, this appeal is DISMISSED. It is ORDERED that appellees FALCON GREEN ENERGY, LLC, DAN VOGLER, DAVID M. COX AND DEWEY VAUGHN recover their costs of this appeal from appellants ARTEMIS SUN, INC., CHRISTOPHER THOMPSON AND MICHAEL CAOLO, JR. Judgment entered December 20, 2018 -3-