

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Rodney Tatum v. Sharon A. Haggard

No. 05-15-00998-CV · No. No. 05-15-00998-CV · Decided November 20, 2015

SUMMARY

The Texas Court of Appeals for the Fifth District ordered the Dallas County District Clerk to file the overdue clerk’s record within ten days or verify that the appellant had not paid for or arranged payment for it. The court explained that the appeal could not proceed until the status of the clerk’s record was resolved.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Elizabeth Lang-Miers
JURISDICTION	Texas
DECIDED	November 20, 2015
DOCKET	No. 05-15-00998-CV
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appellate order addressing an overdue clerk's record in an appeal from the 254th Judicial District Court of Dallas County.
PRECEDENTIAL VALUE	published
PARTIES	Rodney Tatum v. Sharon A. Haggard

TOPICS

- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. What action should the appellate court require when the clerk’s record is overdue and the district clerk has not responded to the court’s directive?

HOLDINGS

1. The appeal could not proceed until the issue of the overdue clerk's record was resolved; the Dallas County District Clerk was therefore ordered either to file the clerk's record within ten days or to provide written verification that the appellant had not paid for or arranged payment for it.

KEY QUOTATIONS

“This appeal cannot proceed, however, until the issue of the clerk’s record is resolved.” (Order)

FACTUAL BACKGROUND

The clerk's record in the appeal was overdue despite the appellate court's prior postcard notice and directive to the Dallas County District Clerk. The appellate court had not received a response and concluded that the appeal could not proceed until the status of the clerk's record was resolved.

PROCEDURAL HISTORY

The appeal was pending in the Court of Appeals, but the clerk's record had not been filed. The appellate court previously notified the Dallas County District Clerk of the delinquency and directed filing within thirty days. After the court inadvertently suspended the deadline while requesting letter briefs concerning jurisdiction, it ordered the district clerk either to file the clerk's record within ten days or to verify that the appellant had not paid for or arranged payment for it.

DISPOSITION

other

OPINION

PER CURIAM.

Order entered November 20, 2015 In The Court of Appeals Fifth District of Texas at Dallas No. 05-15-00998-CV RODNEY TATUM, Appellant V. SHARON A. HAGGARD, Appellee On Appeal from the 254th Judicial District Court Dallas County, Texas Trial Court Cause No. DF-12-18175-R ORDER The clerk’s record in this case is overdue. By postcard dated August 25, 2015, we notified Felicia Pitre, Dallas County District Clerk, that the clerk’s record was overdue.

We directed the District Clerk to file the record within thirty days. To date, we have not received any response. On November 17, 2015, we inadvertently suspended the deadline for the filing of the clerk’s record when we directed the parties to file letter briefs addressing our jurisdiction. This appeal cannot proceed, however, until the issue of the clerk’s record is resolved.

Accordingly, we ORDER the Dallas County District Clerk to file, within TEN DAYS of the date of this order, either: (1) the clerk’s record; or (2) written verification that appellant has not paid for or made arrangements to pay for the record. See TEX. R. APP. P 35.3(c).

We DIRECT the Clerk of the Court to send a copy of this order to Dallas County District Clerk Felicia Pitre by electronic transmission and to the parties. /s/ ELIZABETH LANG-MIERS JUSTICE

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