

Affirmed and Memorandum Opinion filed July 12, 2011.



In The

Fourteenth Court of Appeals

NO. 14-10-00968-CV

FRED ROGERS, Appellant

V.

FORT BEND INDEPENDENT SCHOOL DISTRICT, Appellee

**On Appeal from the 434th Judicial District Court
Fort Bend County, Texas
Trial Court Cause No. 09-DCV-169787**

MEMORANDUM OPINION

Fort Bend County School District brought suit against Fred Rogers for \$12,709.89 in delinquent taxes, penalties, and interest on real property and a “research fee” of \$250, all totaling \$12,959.89. As specified in the live pleadings, the school district sought, in relevant part, any costs of court and “research expenses for determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property.”

It is undisputed that Rogers paid all delinquent taxes, penalties, and interest before trial. In a judgment signed on September 8, 2010, the trial court noted that Rogers had paid all of the delinquent taxes but failed and refused to pay court costs and research fees,

totaling \$495. The trial court rendered a judgment in favor of the school district, ordering Rogers to pay \$495.

In a motion for new trial, in which Rogers challenged the sufficiency of the evidence, Rogers characterized the research fee as an attempt to collect “additional legal fees.” The motion was overruled by operation of law. Rogers now appeals the trial court’s judgment challenging the trial court’s jurisdiction and the sufficiency of the evidence.

JURISDICTION

In his first issue, Rogers claims the trial court lacked jurisdiction to render judgment. According to Rogers, the school district did not refer “to any related statute” to support its claim for research fees and court costs. Rogers also claims the trial court’s judgment was “void without any supporting statute for this award,” referring to an “absent” judgment for property taxes, which formed the basis of the original suit.

The trial court’s judgment, signed September 8, 2010, reflects that Rogers paid the delinquent taxes that formed the basis of the suit; therefore, Rogers’s argument that the record contains no judgment for property taxes lacks merit. Furthermore, the Texas Property Tax Code authorizes collection of “all usual court costs” and “reasonable expenses that are incurred by the taxing unit in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due.” TEX. TAX CODE ANN. § 33.48(a)(1), (4) (West 2008). In its live pleadings, the school district expressly referred to this statutory language when claiming a fee for research for the purpose of “determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property,” and listing a research fee of \$250. *See id.* Although the school district did not refer to a specific statute to support these allegations in its pleadings, the petition is sufficient and meets the requisites set forth in the Property Tax Code. *See* TEX. TAX CODE ANN. § 33.43(a) (West 2008) (outlining the requirements for a sufficient petition

initiating suit to collect a delinquent property tax). Likewise, the judgment is not void merely because it did not contain a reference to the statute in support of the award. *See Int'l Sec. Life Ins. Co. v. Spray*, 468 S.W.2d 347, 350 (Tex. 1971) (providing that the form of a judgment is not controlling so long as certainty is achieved). Nor did the lack of such a reference deprive the trial court of jurisdiction. Rogers's argument is without merit. We, therefore, overrule Rogers's first issue.

SUFFICIENCY OF THE EVIDENCE

In a second issue, Rogers claims the evidence is insufficient to support the judgment because there is no evidence of the research fees or court costs. Contrary to Rogers's assertion, the record contains an itemized statement of costs, as billed by the Fort Bend County district clerk, reflecting a description of charges amounting to \$245 in connection with the suit brought by the school district against Rogers. Rogers refers to a hearing conducted on September 8, 2009,¹ at which the trial court allegedly signed a prepared order and judgment for the costs. No record of that hearing or the trial is included in the appellate record. When, as in this case, there is neither a reporter's record nor findings of fact, we presume the trial court heard sufficient evidence to make all necessary findings in support of the judgment. *Hebison v. Clear Creek Indep. School Dist.*, 217 S.W.3d 527, 536 (Tex. App.—Houston [14th Dist.] 2006, no pet.). Although a party may challenge the legal sufficiency of the evidence supporting the trial court's judgment, a party cannot prevail without presenting a sufficient record on appeal. *See Schafer v. Conner*, 813 S.W.2d 154, 155 (Tex. 1991) (per curiam); *Hebison*, 217 S.W.3d at 536. In conducting an appellate review, this court presumes that any missing record contains sufficient evidence to support the trial court's judgment for the court costs and research fees. *See Hebison*, 217 S.W.3d at 536. Accordingly, Roger's sufficiency challenge fails. We overrule his second issue.

¹ It is possible that Rogers intended to identify this date as September 8, 2010. The record reflects a notice of trial set for September 8, 2010. The trial court's judgment was signed on that date. The appellate record contains no record for either date.

The trial court's judgment is affirmed.

/s/ **Kem Thompson Frost**
 Justice

Panel consists of Justices Frost, Jamison, and McCally.