

judgment. Because the record doesn't show good cause, we disagree, and reverse the court of appeals' judgment.

After Bethune was assaulted and her purse stolen in one of Furr's Supermarkets' parking lots, she sued Furr's for failure to provide adequate security. Although the jury did not find that any negligence by Furr's caused her harm, the trial court had each party bear its own costs contrary to Rule 131.

The only court reporter's record we have is of the hearing to determine assessment of court costs. During that hearing, Bethune advanced two grounds—that she was emotionally fragile and that she couldn't pay the court costs—as “good cause” to have the parties bear their own costs under Rule 141. Those are the only two grounds we will consider on appeal.³ At the hearing, the trial court noted Bethune's emotional outbursts and threats of suicide and stated that it “was not going to be the one to precipitate any further emotional problems for [Bethune].” On appeal, the court of appeals affirmed the trial court's ruling because “[the trial court] was entitled to consider several factors in the record, [it] adequately stated [its] reasoning, and [its] finding of good cause was not an abuse of discretion.”⁴ But the court of appeals erred.

Rule 131 requires the trial court to order that the winning party recover its costs from the losing party, allowing a trial court to order otherwise only “for good cause, to be stated on the record.”⁵ Taxing costs against a successful party in the trial court, therefore, generally contravenes Rule 131.⁶ Yet the trial

³ See *Silber v. Broadway Nat'l Bank*, 901 S.W.2d 672, 675 (Tex. App.—San Antonio 1995, writ denied).

⁴ ___ S.W.3d ___.

⁵ *Operation Rescue-Nat'l v. Planned Parenthood of Houston and Southeast Texas, Inc.*, 937 S.W.2d 60, 86-87 (Tex. App.—Houston [14th Dist.] 1996), *aff'd as modified*, 975 S.W.2d 546 (Tex. 1998); TEX. R. CIV. P. 141.

⁶ *Martinez v. Pierce*, 759 S.W.2d 114, 114 (Tex. 1988).

court's ruling on costs under Rule 141 is permitted within its sound discretion,⁷ although that discretion is not unlimited.⁸

Rule 141 has two requirements—that there be good cause and that it be stated on the record.⁹ “Good cause” is an elusive concept that varies from case to case.¹⁰ Typically though, “good cause” has meant that the prevailing party unnecessarily prolonged the proceedings, unreasonably increased costs, or otherwise did something that should be penalized.¹¹ Here, the trial court stated it was having the parties pay their own costs to avoid its causing Bethune emotional harm. Potential emotional harm caused by a judge assessing costs against the losing party as Rule 131 requires cannot, as a matter of law, be good cause. Stress associated with litigation is an unavoidable consequence of the adversarial process. But trial courts have tools to minimize the strain attendant to a lawsuit. The court may, for example, recess the hearing or postpone the ruling if circumstances suggest that a party is unable to proceed for emotional reasons. A court must not decide whether to apply a rule of procedure based on whether a particular litigant would suffer emotionally.

⁷ *Rogers v. Walmart Stores, Inc.*, 686 S.W.2d 599, 601 (Tex. 1985).

⁸ *See Craddock v. Sunshine Bus Lines*, 133 S.W.2d 124, 126 (Tex. 1939).

⁹ TEX. R. CIV. P. 141.

¹⁰ *See Rogers*, 686 S.W.2d at 601.

¹¹ *See id.*; *see also Operation Rescue-Nat'l*, 937 S.W.2d at 88; *Texas Dep't of Transp. v. Pirtle*, 977 S.W.2d 657, 658 (Tex. App.—Fort Worth 1998, no pet.); *State v. Castle Hills Forest, Inc.*, 842 S.W.2d 370, 373 (Tex. App.—San Antonio 1992, writ denied).

Regarding the second element of Rule 141—cause “stated on the record”—Bethune complains that Furr’s only brought forward a limited record. She cites authority holding that appellate courts must scrutinize the record to decide whether there is any evidence to support the trial court’s “good cause” statement.¹² And she argues that because of the limited record, we must affirm the court of appeals.¹³ We disagree.

Our rules of appellate procedure authorize limited appeals.¹⁴ If properly limited, a party may request a partial reporter’s record, in which event the appellate court must presume that the partial reporter’s record “constitutes the entire record for purposes of reviewing the stated points or issues.”¹⁵ But Bethune argues that Furr’s failed to strictly comply with the rule, and that we should presume that the record supports the trial court’s judgment, because “neither the notice of appeal nor the request for a partial reporter’s record contain ‘any statement of the points or issues to be presented on appeal.’”

While it is true that Furr’s record request does not itself contain a statement of points to be presented on appeal, we have rejected the argument that a request for a partial record must incorporate a statement of issues in, rather than with, the request.¹⁶ Here, Furr’s notified Bethune, on the same day it requested a partial reporter’s record, that “FSI desires to appeal only Judge Ferguson’s failure to award

¹² *Rogers*, 686 S.W.2d at 601.

¹³ *See, e.g., Englander Co. v. Kennedy*, 428 S.W.2d 806 (Tex. 1968); *Christiansen v. Prezelski*, 782 S.W.2d 842, 843 (Tex. 1990).

¹⁴ TEX. R. APP. P. 34.6(c)(1).

¹⁵ TEX. R. APP. P. 34.6(c)(4).

¹⁶ *See Schafer v. Conner*, 813 S.W.2d 154, 155 (Tex. 1991).

FSI its taxable court costs, pursuant to Tex. R. Civ. P. 131 and Tex. Civ. Prac. & Rem. Code § 31.007.” That notice is sufficient to invoke the presumption that the partial reporter’s record constitutes the “entire record” for purposes of reviewing the stated issue. At that point, it became Bethune’s responsibility to designate any other part of the reporter’s record she deemed relevant to the costs issue.¹⁷ She did not do so.

The trial court declared that Bethune’s fragile emotional state was the reason it would not assess court costs against her. As we have concluded, potential harm to a party’s emotional state from applying a procedural rule cannot be good cause as a matter of law. And in this limited record, the only other basis Bethune raised for not assessing costs as Rule 131 directs is that she couldn’t pay the costs. Just as potential emotional harm to a litigant caused by enforcing the rules is not good cause, neither is the party’s inability to pay court costs.¹⁸ “If financial inability to pay was ‘good cause’ then, contrary to rule 131, the winner—not the loser—of a lawsuit would often be in a better position to pay the costs.”¹⁹

In the record before us, we have Bethune’s assertions and the trial court’s observations and statement that Bethune would be emotionally harmed if court costs were assessed against her. Otherwise, we have only Bethune’s assertion that she cannot pay the court costs. Because these causes are not good cause as a matter of law and because Bethune points us to no other “good cause” that she argued to the trial court, we conclude that the trial court abused its discretion.

¹⁷ TEX. R. APP. P. 34.6(c)(2).

¹⁸ *Adams v. Stotts*, 667 S.W.2d 798, 801 (Tex. App.—Dallas 1983, no writ).

¹⁹ *Id.*

* * * * *

Rule 131's underlying purpose is to ensure that the prevailing party is freed of the burden of court costs and that the losing party pays those costs. Any litigation is emotionally wrenching for the individuals involved. And court costs are often financially burdensome. This is precisely why Bethune's reasons cannot be good cause to release her from her responsibility. Rather, Rule 141's good cause exception to the mandate of Rule 131 is designed to account for a prevailing party's questionable conduct that occurs during litigation, permitting the trial judge some discretion to reassess costs so that the cost attendant to that conduct is not visited on an innocent, but losing party. We reverse the court of appeals' judgment and assess costs in this case as Rule 131 requires.

Craig T. Enoch
Justice

OPINION DELIVERED: June 28, 2001