

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS FRIES, AN INDIVIDUAL,
Appellant,
vs.
JMS CONTRACTORS, INC., A NEVADA
CORPORATION; AND SHAWN
ELFBERG, AN INDIVIDUAL,
Respondents.

No. 60638

FILED

JAN 30 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

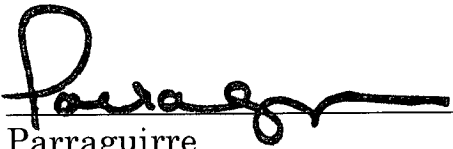
On December 21, 2012, this court entered an order conditionally sanctioning appellant's counsel David J. Winterton for failure to file the transcript request form. Additionally, our December 21 order conditionally sanctioned respondents' counsel Sean P. Flanagan for failing to file respondents' answering brief. Both attorneys were directed to pay \$500 to the Supreme Court Law Library and to provide this court with proof of such payment by January 7, 2013. As set forth in the December 21 order, the sanctions would have been automatically vacated if each attorney filed and served the overdue documents by January 2, 2013. We further cautioned counsel that failure to comply with the December order would result either in the dismissal of the appeal, or, in the case of Mr. Flanagan, a confession of error. To date, neither Mr. Winterton nor Mr. Flanagan has filed the required documents or provided this court with proof of payment of the sanctions. Accordingly, we dismiss this appeal.

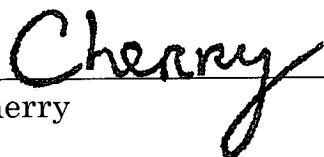
Further, the \$500 sanction imposed by our December 21 order remains in effect. Mr. Winterton and Mr. Flanagan shall have seven days from the date of this order to each pay the \$500 sanction and provide this court with proof of payment of the \$500 sanction. Additionally, we refer

Mr. Winterton and Mr. Flanagan to the State Bar of Nevada to pursue such investigation and discipline as it sees fit. We direct the clerk of this court to mail copies of this order as well as our December 21, 2012, order to the State Bar of Nevada.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: David J. Winterton & Associates, Ltd.
Sean P. Flanagan
Supreme Court Law Librarian