

*Court of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-10-00301-CR

Braddon Richard **COOPER**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the County Court, Bandera County, Texas  
Trial Court No. 07-00142  
Honorable Richard A. Evans, Judge Presiding

Opinion by: Sandee Bryan Marion, Justice

Sitting: Sandee Bryan Marion, Justice  
Phylis J. Speedlin, Justice  
Rebecca Simmons, Justice

Delivered and Filed: October 6, 2010

**DISMISSED**

On April 7, 2010, appellant filed his notice of appeal. The clerk's record and reporter's record were both due on May 24, 2010. On May 21, 2010, the county clerk filed a Notification of Late Record stating the clerk's record has not been filed because she has not received payment for the record. Accordingly, on May 25, 2010, this court ordered appellant to provide written proof to this court that either (1) the clerk's fee has been paid or arrangements have been made to pay the clerk's fee; or (2) appellant is entitled to appeal without paying the clerk's fee. Our order

informed appellant that if he failed to respond within the time provided, this cause would be abated to the trial court for an abandonment hearing. *See* TEX. R. APP. P. 37.3(a)(2).

On May 25, 2010, the court reporter filed a Notification of Late Record stating the reporter's record has not been filed because appellant had failed to pay or make arrangements to pay the reporter's fee for preparing the record and appellant is not entitled to appeal without paying the fee. Accordingly, on June 3, 2010, this court ordered appellant to provide written proof to this court that either (1) the reporter's fee has been paid or arrangements have been made to pay the reporter's fee or (2) appellant is entitled to appeal without paying the reporter's fee. Our order informed appellant that if he failed to provide such proof, appellant's brief would be due within thirty (30) days from the date of the order, and this court would only consider those issues or points raised in appellant's brief that do not require a reporter's record for a decision. *See* TEX. R. APP. P. 37.3(c). Appellant is represented on appeal by retained counsel Mr. Thomas Hayes. Mr. Hayes did not file a response to our orders. However, on July 14, 2010, appellant filed a pro se letter stating he is unable to pay court costs. On July 20, 2010, we abated the cause to the trial court for an abandonment hearing.

Following our abatement to the trial court based upon appellant's failure to pay for either the clerk's record or the reporter's record, the trial court filed its findings and conclusions. The trial court found that appellant is not indigent and has at all relevant times been capable of paying for the records. Accordingly, on August 31, 2010, this court ordered appellant to provide written proof to this court no later than September 6, 2010 that both the clerk's fee and the reporter's fee have been paid in full. Our order informed appellant that no further extensions would be granted and that if appellant did not provide such written proof by September 6, 2010, this appeal would be dismissed for want of prosecution. A copy of this order was served on Mr.

Hayes by certified mail, return receipt requested, and by United States mail. A “green card” indicating a copy of the order was received and signed for was returned to this court on September 2, 2010. No response has been filed. Accordingly, the appeal is dismissed.

PER CURIAM

Do not publish