

NO. 07-08-0054-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL C  
JULY 23, 2008

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DANTA JOHNSON, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

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FROM THE 320TH DISTRICT COURT OF POTTER COUNTY;

NO. 54,914-D; HONORABLE DON R. EMERSON, JUDGE

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Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

**ORDER OF DISMISSAL**

Appellant, Danta Johnson, appeals his conviction for injury to a child causing bodily injury and sentence of three years incarceration in the Institutional Division of the Texas Department of Criminal Justice. We abated the appeal and remanded to the trial court, on May 16, 2008, to conduct a hearing to determine, *inter alia*, whether appellant desires to prosecute the appeal. At the hearing convened by the trial court per our directive, appellant stated, "I would rather not appeal this case. I would rather go back to TDC and

finish my sentence.” This representation was then memorialized by the trial court in findings of fact and conclusions of law filed with this Court on July 10, 2008.

Although we have received no formal motion to dismiss from appellant, as required by Texas Rule of Appellate Procedure 42.2(a), Rule 2 of the same rules permits us to suspend the operation of an existing rule. TEX. R. APP. P. 2. See Rodriguez v. State, 970 S.W.2d 133, 135 (Tex.App.–Amarillo 1998, pet. ref’d). Therefore, pursuant to Rule 2 and because appellant has clearly revealed his desire to forego appeal, we suspend Rule 42.2(a) and dismiss the appeal based upon appellant’s representation to the trial court.

Having so dismissed the appeal, no motion for rehearing will be entertained and our mandate will issue forthwith.

Mackey K. Hancock  
Justice

Do not publish.