



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-17-00300-CR

NOE MORIN, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 286th District Court
Cochran County, Texas
Trial Court No. 11-01-1399; Honorable Pat Phelan, Presiding

September 18, 2017

ORDER OF ABATEMENT AND REMAND

Before CAMPBELL and PIRTLE and PARKER, JJ.

In March 2013, Appellant, Noe Morin, was granted deferred adjudication community supervision for seven years and assessed a \$750 fine for the offense of indecency with a child.¹ In January 2015, the State moved to proceed with an adjudication of guilt based on Appellant's violations of the conditions of his community

¹ TEX. PENAL CODE ANN. § 21.11(a)(1) (West 2011).

supervision. Appellant later plead true to the allegations in the State's motion, and the trial court adjudicated Appellant guilty of the original offense, sentenced him to fifteen years confinement, and assessed a fine of \$2,500. Appellant's retained counsel filed a notice of appeal from the trial court's judgment.

The clerk's record and reporter's record were due on June 14, 2017. The clerk's record has been filed. On August 22, the reporter notified the court that Appellant had not requested preparation or made acceptable payment arrangements for the reporter's record. See TEX. R. APP. P. 35.3(b)(2), (3). By letter that day, we directed Appellant to request preparation and make acceptable payment arrangements for the reporter's record by September 1. Failure to do so, we advised, could result in the appeal being abated and the cause remanded to the trial court for further proceedings. See TEX. R. APP. P. 37.3(a)(2). On August 23, Appellant's counsel filed a copy of a letter sent to the reporter that day, requesting preparation and offering to make payment arrangements for the reporter's record. The reporter has notified the court, however, that Appellant has not made payment arrangements for the reporter's record to date.

Accordingly, we abate the appeal and remand the cause to the trial court for further proceedings. See TEX. R. APP. P. 37.3(a)(2). On remand, the trial court shall utilize whatever means it finds necessary to determine the following:

- (1) whether Appellant desires to prosecute the appeal;
- (2) if Appellant desires to prosecute the appeal, whether Appellant is indigent and entitled to have the reporter's record furnished without charge per Rule 20.2 of the Texas Rules of Appellate Procedure; and

- (3) if Appellant is not entitled to have the reporter's record furnished without charge, the date Appellant will make acceptable payment arrangements for the reporter's record.

We further direct the trial court to issue findings of fact and conclusions of law addressing the foregoing subjects. Additionally, the trial court shall cause to be developed (1) a clerk's record containing the findings of fact and conclusions of law and (2) a reporter's record transcribing the evidence and argument presented at any hearing held. The trial court shall cause the supplemental record to be filed with the clerk of this court on or before October 20, 2017. Should additional time be needed to perform these tasks, the trial court may request same on or before that date.

It is so ordered.

Per Curiam

Do not publish.