

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-10-00393-CR

Merril Leroy Jessop, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF SCHLEICHER COUNTY, 51ST JUDICIAL DISTRICT
NO. 995, THE HONORABLE BARBARA L. WALTHER, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Merrill Leroy Jessop filed a pro se notice of appeal following his conviction for sexual assault of a child. In connection with that appeal, appellant filed pro se motions for a free record and appointed counsel for the appeal. After conducting a hearing on the motions, the trial court found that appellant was not indigent and denied the motions. Appellant appealed the trial court's ruling. We affirmed the trial court's order denying appointed counsel and a free record. *See Jessop v. State*, No. 03-10-00393-CR, 2011 WL 182871, at *4 (Tex. App.—Austin Jan. 19, 2011) (mem. op., not designated for publication). The court of criminal appeals subsequently granted, but later dismissed as improvidently granted, appellant's petition for discretionary review. *See Jessop v. State*, PD-0241-11,(Tex. Crim. Mar. 28, 2012), available at <http://www.cca.courts.state.tx.us/opinions/pdfOpinion.asp?OpinionID=22305>. Accordingly, the case was returned to our court.

On June 20, 2012, this Court sent a letter to appellant requesting that he make arrangements for the record to be filed with this Court and submit a status report regarding his appeal. We informed appellant that his appeal may be dismissed for want of prosecution if he did not make arrangements for payment of the record and submit a status report regarding this appeal on or before July 2, 2012. To date, appellant has not responded to this Court's letter, the record has not been filed, and no arrangements for payment of the record have been made.¹

We dismiss the appeal for want of prosecution. *See* Tex. R. App. P. 37.3(b).

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Puryear and Pemberton

Dismissed for Want of Prosecution

Filed: August 3, 2012

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¹ While the petition for discretionary review was pending before the court of criminal appeals, a motion to substitute counsel was filed. The court of criminal appeals granted the motion, allowing currently designated counsel to substitute in for appellant's retained trial counsel who was handling appellant's appeal, including the appeal of the indigency matter, pro bono. In response to our June 20 letter, we received a response from substituted counsel stating that appellant was informed of the dismissal of his petition for discretionary review. Counsel expressed that he did not believe appellant would be arranging for a record in this case and, further, indicated that appellant understood that the failure to do so would lead to the dismissal of his appeal for want of prosecution.