

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-10-00682-CR

Nnamdi Royce Washington, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 426TH JUDICIAL DISTRICT
NO. 64,770, HONORABLE FANCY H. JEZEK, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant's notice of appeal was filed on October 8, 2010, the clerk's record and reporter's record were filed on October 18. Appellant's brief was therefore due on November 17. *See* Tex. R. App. P. 38.6(a). Appellant has requested and received three extensions of time to file his brief, the last of which extended the deadline to February 28, 2011, but to date the brief has not been received. In granting the last motion for extension of time, we cautioned counsel that failure to file would result in our referring the cause to the trial court pursuant to rule 38.8(b). *See id.* R. 38.8(b).

The appeal is therefore abated. The trial court shall conduct a hearing to determine whether appellant still wishes to pursue his appeal, whether appellant is indigent, and whether counsel has abandoned the appeal. *See id.* The court shall make appropriate findings and recommendations, and a supplemental record from this hearing, including copies of all findings and

orders and a transcription of the court reporter's notes, shall be forwarded to the clerk of this Court within forty-five days of the date of this opinion. *See id.* R. 38.8(b)(3).

David Puryear, Justice

Before Justices Puryear, Pemberton and Rose

Abated

Filed: March 11, 2011