

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-10-00787-CR**

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**Robert Beene Gutierrez, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT  
NO. CR2009-331, HONORABLE CHARLES R. RAMSAY, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

Appellant Robert Beene Gutierrez pleaded guilty to the offense of assault on a public servant. Punishment was assessed at eight years' imprisonment and a \$2,000 fine, but the district court suspended imposition of the sentence and placed Gutierrez on community supervision for eight years. Gutierrez filed a pro se notice of appeal from the district court's judgment.

On January 14, 2011, this Court notified Gutierrez that he had neither paid, nor made arrangements to pay, for the clerk's record. We informed Gutierrez that his appeal may be dismissed for want of prosecution if he did not make arrangements for the record and submit a status report regarding this appeal on or before January 24, 2011. To date, Gutierrez has not responded to this Court's notice, and the clerk's record has not been filed. The only communication we have received is a letter from Gutierrez's wife, forwarded to us from the district clerk's office, and accompanied

by what appears to be a power of attorney. In the letter, Gutierrez's wife, writing on her husband's behalf, advises us that Gutierrez "would not like to proceed at this time with an appeal for a retrial."

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

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Bob Pemberton

Before Justices Puryear, Pemberton and Rose

Dismissed for Want of Prosecution

Filed: February 18, 2011

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