

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

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**NO. 03-11-00103-CR**

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**Belinda Orona, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE COUNTY COURT AT LAW NO. 1 OF CALDWELL COUNTY  
NO. 39195, HONORABLE EDWARD L. JARRETT, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

**PER CURIAM**

This is an appeal from a conviction for resisting arrest.<sup>1</sup> The appellate record is overdue. The clerk did not respond to the Court's overdue notice, but the Court has been advised by the reporter that the record has been neither requested nor paid for.

Appellant's counsel of record has moved to withdraw. In his motion, counsel states that he was appointed to represent appellant at trial, and that he gave notice of appeal "for the limited purpose of preserving Appellant's right to appeal." *But see* Tex. Code Crim. Proc. Ann. art. 26.04(j)(2) (West Supp. 2010); Tex. R. App. P. 6.1(a). According to the motion, appellant has

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<sup>1</sup> The notice of appeal was filed on June 14, 2010, but was not received by this Court until February 18, 2011. *See* Tex. R. App. P. 25.2(e).

told counsel that a new attorney has been retained for this appeal, but counsel states that he has been unable to confirm this with the new attorney. The amended motion to withdraw is dismissed.

The appeal is abated and the trial court is instructed to determine, following a hearing if necessary, whether appellant is presently indigent. *See* Tex. Code Crim. Proc. Ann. art. 26.04(p). If a hearing is held, appellant's present counsel shall represent her. If the court finds that appellant is indigent, it shall order the preparation of the appellate record at no cost to appellant. The court shall also make any order needed to insure that appellant is effectively represented on appeal, including appointing new counsel if necessary. Copies of the court's findings, conclusions, and orders, and a transcription of the reporter's notes if a hearing is held, shall be tendered for filing in this Court no later than May 13, 2011.

Before Chief Justice Jones, Justices Henson and Goodwin

Abated

Filed: April 8, 2011

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