

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

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**NO. 03-11-00836-CR**

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**William Henry Zientek, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE COUNTY COURT OF MILAM COUNTY  
NO. CR31073, HONORABLE DAVID L. BARKEMEYER, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

**PER CURIAM**

Appellant William Henry Zientek has filed a pro se notice of appeal from his conviction for the misdemeanor offense of driving while intoxicated. Appellant's brief was due in this Court on August 22, 2012. On September 10, we notified appellant that his brief was overdue and that if we did not receive a satisfactory response on or before September 20, 2012, a hearing before the district court pursuant to Tex. R. App. P. 38.8(b) would be ordered. To date, no brief has been filed, nor have we received a response from appellant.

We therefore abate the cause and remand it to the trial court to hold a hearing in accordance with rule 38.8 of the rules of appellate procedure. Tex. R. App. P. 38.8(b)(2), (3). The trial court shall hold a hearing immediately to determine whether appellant still wishes to prosecute his appeal and whether appellant is indigent. *See id.* If appellant desires to appeal and is indigent, the trial court should make appropriate orders to ensure that appellant is adequately represented

on appeal. *See id.* Following the hearing, the trial court should order the appropriate supplementary clerk's and reporter's records to be prepared and forwarded to this Court no later than February 11, 2013. *See id.*

Before Justices Puryear, Pemberton and Rose

Abated

Filed: January 10, 2013

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