

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-21-00198-CR

Ex parte Gary Griffin

**FROM THE 22ND DISTRICT COURT OF HAYS COUNTY
NO. CR-14-0432-A-WHC2, THE HONORABLE R. BRUCE BOYER, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant Gary Griffin appeals from the trial court’s order denying his application for writ of habeas corpus. *See* Tex. Code Crim. Proc. art. 11.072, § 8. The clerk’s record was originally due to be filed in this case on June 4, 2021. As of the date of this order, the record has not been filed.

The trial and appellate courts are jointly responsible for ensuring that the appellate record is timely filed. *See* Tex. R. App. P. 35.3(c). It is the duty of the trial court clerk to prepare, certify, and timely file the clerk’s record in a criminal case if a notice of appeal has been filed, and the trial court has certified the defendant’s right of appeal. *See id.* 35.3(a); *see also id.* 25.2(a) (obligating trial court to enter certification of defendant’s right of appeal “each time it enters a judgment of guilt or other appealable order”), (d) (requiring record to include trial court’s certification), 34.5(a)(12) (same); *Ex parte Gutierrez*, No. 03-17-00644-CR, 2017 WL 5247516, at *2 (Tex. App.—Austin Nov. 7, 2017, no pet.) (mem. op., not designated for

publication) (specifying that “[a]n order denying habeas corpus relief under Article 11.072 is an appealable order”).

Accordingly, we abate this appeal and remand the case to the trial court to allow for the filing of the clerk’s record, including a certification of Griffin’s right of appeal. *See* Tex. R. App. P. 25.2(a)(2), (d), 37.3(a)(2) (requiring appellate court, if the clerk’s record has not been filed, to “make whatever order is appropriate to avoid further delay and to preserve the parties’ rights”). The trial court is instructed to file the record no later than July 29, 2022.

It is ordered on July 22, 2022.

Before Chief Justice Byrne, Justices Triana, Smith

Abated and Remanded

Filed: July 22, 2022

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