

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-21-00313-CR
NO. 03-21-00315-CR**

Zachery Angel Lucero, Appellant

v.

The State of Texas, Appellee

**FROM THE 51ST DISTRICT COURT OF TOM GREEN COUNTY
NO. A-19-0600-SA-W-1, THE HONORABLE CARMEN DUSEK, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant's brief in the above appeals was originally due January 13, 2022. On May 9, 2022, after this Court had granted appellant two extensions of time to file his brief, counsel for appellant filed a brief in a companion case, No. 03-21-00314-CR, but did not file a brief in these appeals.¹ On June 2, 2022, this Court sent a notice to appellant informing him that failure to file a brief by June 13, 2022, may result in the referral of this case to the trial court for a hearing under Rule 38.8(b) of the Texas Rules of Appellate Procedure.

The appeal is abated and remanded to the trial court. The trial court shall conduct a hearing to determine whether appellant desires to prosecute these appeals and, if so, whether

¹ Instead, counsel indicated within his brief that he would be filing a motion to dismiss these appeals. However, counsel did not otherwise inform this Court of his intent to file a motion to dismiss, and as of this date, no such motion has been filed.

counsel has abandoned these appeals. *See* Tex. R. App. P. 38.8(b)(2), (3). The court shall make appropriate written findings and recommendations. *See id.* R. 38.8(b)(2), (3). If necessary, the court shall appoint substitute counsel who will effectively represent appellant in these appeals. Following the hearing, which shall be transcribed, the trial court shall order the appropriate supplemental clerk's and reporter's records—including all findings and orders—to be prepared and forwarded to this Court no later than August 12, 2022. *See id.* R. 38.8(b)(3).

It is so ordered July 13, 2022.

Before Chief Justice Byrne, Justices Triana and Smith

Abated and Remanded

Filed: July 13, 2022

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