

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-23-00380-CR

Christopher West Lopez, Appellant

v.

The State of Texas, Appellee

**FROM THE 427TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-DC-15-205012, THE HONORABLE TAMARA NEEDLES, JUDGE PRESIDING**

NO. 03-23-00381-CR

Christopher Lopez, Appellant

v.

The State of Texas, Appellee

**FROM THE 427TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-DC-15-100158, THE HONORABLE TAMARA NEEDLES, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant's brief in each of the above appeals was originally due November 2, 2023. After this Court granted counsel three motions requesting an extension of time to file

appellant's brief, the brief was due March 1, 2024. In granting the most recent extension, this Court advised counsel that no further extensions would be granted and that failure to file the brief by the deadline would result in the referral of these cases to the trial court for a hearing under Rule 38.8(b) of the Texas Rules of Appellate Procedure.

On February 28, 2024, counsel filed her fourth motion for extension of time to file appellant's brief, in which she represented that while drafting appellant's brief "[that] week," she "realized that critical transcripts and exhibits were not included in the reporter's record that was submitted to" this Court, including a record of appellant's sentencing hearing, "any exhibits that may have been introduced as part of that sentencing hearing," and an expert report that was admitted as a defense exhibit. That same date, counsel filed with the district court a motion to supplement the record. Counsel requests that we grant her an additional thirty days, after the date the supplemental record is filed, to file appellant's brief.¹

The reporter's record and exhibits were filed in this Court on September 21, 2023. The missing portions from that record should have been discovered by counsel before now. We deny counsel's motion for an additional extension.

The appeal is abated and remanded to the trial court. The trial court shall conduct a hearing on counsel's failure to timely file appellant's brief and shall make appropriate written findings and recommendations. *See* Tex. R. App. P. 38.8(b)(2), (3). If necessary, the court shall appoint substitute counsel who will effectively represent appellant in this appeal. Following the hearing, which shall be transcribed, the trial court shall order the appropriate supplemental

¹ Although counsel did not specify in her motion when that date would be, the supplemental record was filed in this Court on March 18, 2024.

clerk's and reporter's records—including all findings and orders—to be prepared and forwarded to this Court no later than April 26, 2024. *See id.* R. 38.8(b)(3).

It is so ordered March 27, 2024.

Before Chief Justice Byrne, Justices Triana and Kelly

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