

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

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**NO. 03-23-00475-CR  
NO. 03-23-00476-CR  
NO. 03-23-00477-CR  
NO. 03-23-00478-CR  
NO. 03-23-00479-CR  
NO. 03-23-00480-CR  
NO. 03-23-00481-CR**

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**Phillip Sueoka, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM COUNTY COURT AT LAW NO. 2 OF BELL COUNTY  
NOS. 22CCR02721, 22CCR02722, 22CCR02723, 22CCR02724, 22CCR02725, 22CCR02726, &  
22CCR02727, THE HONORABLE JOHN MICHAEL MISCHTIAN, JUDGE PRESIDING**

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**ORDER AND MEMORANDUM OPINION**

**PER CURIAM**

Phillip Sueoka was convicted of seven counts of the misdemeanor offense of illegally depositing or discharging waste on public or private property. *See* City of Harker Heights, Tex., Code of Ordinances § 53.02. Following his convictions, Sueoka filed notices of appeal regarding his convictions. On December 5, 2023, the court reporter filed a letter informing the Court that Sueoka had not made arrangements to pay for the reporter's records in these cases, and this Court sent a notice on December 12, 2023, to Sueoka's retained appellate counsel explaining that the reporter's records were overdue and requiring him to provide by

December 22, 2023, written verification that payment for the records had been made and that a request for the record had been made. Alternatively, this Court stated that if no written verification were provided, the cases would be considered without the reporter's records, and the appellant's brief would be due on January 11, 2024. No written verification and no appellant's briefs were filed. On January 22, 2024, this Court sent a notice to Sueoka's attorney stating that the appellant's brief was overdue and that a failure to file a satisfactory response by February 1, 2024, would result in the referral of the cases to the trial court for a hearing under Rule 38.8(b) of the Rules of Appellate Procedure. *See* Tex. R. App. P. 38.8. No brief or request for an extension has been filed, and Sueoka's attorney has not otherwise responded to this Court's notice that the brief was overdue.

In light of the preceding, we abate the appeals and remand the causes to the trial court to conduct a hearing in accordance with Rule 38.8 of the Rules of Appellate Procedure. *Id.* R. 38.8(b)(2), (3). The trial court shall conduct a hearing immediately to determine whether Sueoka still wishes to prosecute his appeal, whether he is indigent, and, if he is not indigent, whether retained counsel has abandoned this appeal and whether Sueoka has made the necessary arrangements for filing a brief. *See id.* The trial court shall make appropriate findings and recommendations. *See id.* If Sueoka desires to appeal and is indigent, the trial court should make appropriate orders to ensure that he is adequately represented on appeal.

A record of this hearing, including copies of all findings and any orders as well as the appropriate supplementary clerk's and reporter's records, shall be forwarded to the Clerk of this Court for filing no later than March 7, 2024. *See id.* R. 38.8(b)(3).

It is ordered on February 6, 2024.

Before Justices Baker, Triana, and Kelly

Abated and Remanded

Filed: February 6, 2024

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