

NO. 12-10-00190-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*KEVIN MCBRAYER,
APPELLANT*

§ APPEAL FROM THE 241ST

V.

§ JUDICIAL DISTRICT COURT OF

*THE STATE OF TEXAS,
APPELLEE*

§ SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Appellant Kevin McBrayer pleaded guilty to forgery of a financial instrument and was placed on deferred adjudication community supervision for five years. The State later filed an application to proceed to final adjudication alleging that Appellant had violated the conditions of his deferred adjudication community supervision. The trial court granted the State's application, found Appellant guilty, and imposed sentence. Appellant filed a pro se notice of appeal.

When Appellant did not file a docketing statement after notice, this court ordered the trial court to conduct a hearing to determine the cause of Appellant's failure to file a docketing statement and whether Appellant had abandoned the appeal. The trial court was also ordered to determine whether Appellant could afford to hire counsel, was entitled to appointed counsel, or desired to represent himself on appeal.

At the hearing, Appellant informed the trial court that he did not wish to pursue the appeal. He also presented the court with a motion to dismiss the appeal, which had been signed and sworn to by Appellant. Consequently, the trial court found that Appellant had abandoned his appeal.

We have received a supplemental reporter's record and clerk's record relating to the hearing. This record includes Appellant's testimony and his motion to dismiss, as

well as the trial court's findings of fact and conclusions of law. The supplemental record supports the trial court's finding that Appellant does not wish to pursue this appeal and has abandoned it. Accordingly, the appeal is *dismissed*. See TEX. R. APP. P. 42.2(a).

Opinion delivered September 15, 2010.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)