

Dismissed and Memorandum Opinion filed February 17, 2011.



In The

Fourteenth Court of Appeals

NO. 14-10-01005-CR

TUAN VAN LY, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 228th District Court
Harris County, Texas
Trial Court Cause No. 643995**

MEMORANDUM OPINION

This appeal arises from the denial of a motion for DNA testing. On January 10, 2011, this court ordered a hearing to determine why appellant's counsel had not filed a brief in this appeal. On January 26, 2011, the trial court conducted the hearing, and the record of the hearing was filed in this court on February 1, 2011.

At the hearing, appellant, together with his counsel, confirmed that appellant no longer wished to pursue his appeal.

Appellant has not filed a written motion to withdraw the appeal or a written motion to dismiss the appeal. *See* TEX. R. APP. P. 42.2(a). However, based upon the testimony at the hearing that appellant does not want to continue his appeal, we conclude that good cause exists to suspend the operation of Rule 42.2(a) in this case. *See* TEX. R. APP. P. 2.

Accordingly, we dismiss the appeal.

PER CURIAM

Panel consists of Justices Brown, Boyce, and Jamison.

Do Not Publish — Tex. R. App. P. 47.2(b).