

Dismissed and Memorandum Opinion filed July 7, 2016.



In The

Fourteenth Court of Appeals

NO. 14-16-00042-CR

MONIQUE ANN MCGOWAN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 212th District Court
Galveston County, Texas
Trial Court Cause No. 12-CR-2329**

M E M O R A N D U M O P I N I O N

On February 22, 2013, appellant entered a guilty plea to the offense of possession of a controlled substance. In accordance with a plea bargain agreement with the State, the trial court deferred adjudication of appellant's guilt and placed her on two years' deferred-adjudication community supervision. On January 15, 2015, the State filed a motion to adjudicate appellant's guilt on the grounds that she violated the terms of her community supervision. After a plea of not true to the State's motion, the trial court found at least one of the allegations true and

adjudicated appellant's guilt on December 17, 2015. The trial court assessed punishment at 180 days in the State Jail Division of the Texas Department of Criminal Justice. Appellant filed a notice of appeal on December 17, 2015.

On May 10, 2016, counsel for appellant filed a motion to withdraw appeal, alleging that appellant no longer wished to pursue this appeal. Counsel delivered a copy of the motion to appellant, but appellant failed to return a signed copy of the motion. Because appellant had not signed the motion, it did not comply with Texas Rule of Appellate Procedure 42.2(a). On June 2, 2016, this court ordered a hearing to determine, among other things, whether appellant desired to pursue this appeal. On June 27, 2016, the trial court conducted the hearing, and the record of the hearing was filed in this court on June 29, 2016.

At the hearing, counsel appeared without appellant. According to counsel, appellant refused to appear because she had an outstanding warrant, which was confirmed by the State. However, counsel confirmed that he had discussed the issues with appellant and determined that appellant no longer wished to pursue her appeal. Following the hearing, the trial court recommended the appeal be dismissed.

Appellant has not filed a compliant 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 of counsel at the hearing that appellant does not want to continue her 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 Busby, Donovan, and Wise.

Do Not Publish — Tex.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