

Affirmed and Memorandum Opinion filed July 11, 2017.



In The

Fourteenth Court of Appeals

NO. 14-16-00352-CR

ALFREDO URETEGA GARCIA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 232nd District Court
Harris County, Texas
Trial Court Cause No. 686001**

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

Appellant's conviction for sexual assault of a child was affirmed April 17, 1997. *See Garcia v. State*, No. 08-96-00196-CR (Tex. App.—El Paso Apr. 17, 1997, no pet.) (not designated for publication). Appellant appeals the denial of his second motion for DNA testing.¹

¹ Appellant's earlier appeal of his first motion for DNA testing was dismissed because appellant's notice of appeal was untimely filed.

Appellant is not represented on appeal by counsel. Appellant's brief was originally due October 6, 2016, but no brief has been filed. This court abated the appeal and directed the trial court to conduct a hearing to determine the reason for the failure to file a brief pursuant to Texas Rule of Appellate Procedure 38.8(b). The trial court held a hearing, and appellant confirmed to the court that he wished to pursue his appeal and was in the process of hiring an attorney to assist with his appeal. This court set a due date of March 6, 2017 for appellant's brief to be filed. When appellant failed to file a brief, this court ordered appellant to file a brief on or before May 25, 2017, and explained that if appellant did not timely file a brief as ordered, the court would consider the appeal without briefs. *See* Tex. R. App. P. 38.8(b)(4). No brief was filed.

On the basis of the trial court's findings, this court has considered the appeal without briefs. *See* Tex. R. App. P. 38.8(b). We find no fundamental error.

Accordingly, the judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Christopher, Brown, and Wise.

Do Not Publish — Tex.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