

Affirmed and Memorandum Opinion filed May 11, 2017.



In The

Fourteenth Court of Appeals

NO. 14-16-00683-CR

CHRISTOPHER MICHAEL DUPUY, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 405th District Court
Galveston County, Texas
Trial Court Cause No. 13CR1365**

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

Christopher Michael Dupuy pleaded guilty to abuse of official capacity. Tex. Penal Code Ann. § 39.02 (West 2009). On September 19, 2013, the trial court deferred adjudication and placed him on community supervision for two years. On July 29, 2015, the State filed a motion to adjudicate appellant's guilt due to alleged violations of the community supervision terms. On August 5, 2016, the trial court granted the State's motion to adjudicate and rendered judgment adjudicating guilt. The trial court sentenced appellant to one year's confinement in the county jail. Appellant filed a notice of appeal, and the trial court certified his right to appeal.

Appellant is proceeding pro se on appeal. After he failed to file a brief, we abated the appeal and directed the trial court to conduct a hearing to determine whether appellant desired to continue his appeal. The trial court issued noticed of and held the hearing, but appellant did not appear. The trial court stated:

[T]o the best knowledge of the 405th District Court and their staff, [appellant] was served by certified mail, which I'm holding in my hand He was served with these to the addresses that the 405th is aware of from — from [appellant]. He has not appeared.

Based on his nonappearance, the Court cannot inquire whether or not he is indigent or whether or not he intends to prosecute his appeal; but his lack of appearing after being served, I can only make the conclusion of law that he is not willing to prosecute the appeal.

I do not have any ability to inquire whether or not he is indigent. I do not have any ability to inquire of [appellant] whether or not he wishes to go forward, whether he wants counsel or not. But the fact he's not responded to anything from the 14th Court of Appeals, he has not filed anything with them since his Notice of Appeal here in the trial court awhile back, and that he did not appear here today, I am finding he does not wish to prosecute his appeal

On January 5, 2017, this court ordered appellant to file a brief on or before February 6, 2017. The court explained that if appellant did not timely file his brief as ordered, the court would consider the appeal without briefs. *See* Tex. R. App. P. 38.8(b)(4). Appellant has not filed a brief.

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, Busby, and Jewell.
Do Not Publish — Tex. R. App. P. 47.2(b).