

Appeal Reinstated, Appeal Dismissed, and Memorandum Opinion filed June 22, 2021.



In The

Fourteenth Court of Appeals

NO. 14-20-00746-CV

IN RE THE COMMITMENT OF M. G.

**On Appeal from Probate Court No. 3
Harris County, Texas
Trial Court Cause No. I291295**

MEMORANDUM OPINION

This is an appeal from an order requiring court-ordered mental health services under chapter 574 of the Health and Safety Code. *See* Tex. Health & Safety Code § 574.070. Appellant was represented in the trial court by appointed counsel, Angela Phea. *See id.* § 574.003.

Appellant's brief was originally due January 4, 2021. When no brief was filed, we abated the appeal for the trial court to conduct a hearing to determine the reason for the failure. At the hearing, Phea stated that her last contact with appellant was when appellant fired her and said she would retain new counsel. Phea did not file the

notice of appeal for appellant and was unaware appellant had filed a pro se notice of appeal. The trial court appointed Martina Cartwright as new counsel for appellant.

On March 25, 2021, Cartwright filed a status report describing her efforts to locate appellant and a motion to extend time to file appellant's brief. We granted the motion until May 3, 2021. On May 3, Cartwright filed a second status report again detailing her extensive but unsuccessful efforts to locate appellant to determine if appellant wants to continue the prosecution of this appeal.

On May 11, 2021, we issued an order abating the appeal and directing the trial court to conduct a hearing and make findings of fact regarding whether appellant has abandoned this appeal and whether Cartwright should be permitted to withdraw. We stated in the order that we would dismiss the appeal for want of prosecution if the trial court found that appellant has abandoned this appeal. *See* Tex. R. App. P. 38.8(a)(1), 42.3(b); *State ex rel. Y.S.*, No. 08-18-00130-CV, 2018 WL 4113165, at *1 (Tex. App.—El Paso Aug. 29, 2018, no pet.) (mem. op.) (per curiam) (dismissing for want of prosecution appeal from order requiring court-ordered mental health services).

On May 20, 2021, the trial court held that hearing at which Cartwright and an attorney for the State participated. Following the hearing, the trial court made the following written findings: (1) Cartwright has been unsuccessful in locating appellant despite using her best efforts; (2) Cartwright conducted a diligent and comprehensive search for appellant; (3) Cartwright has received no communications from appellant, any member of appellant's family, any third party purporting to act on behalf of appellant; any person or institution purporting to provide medical services for the benefit of appellant, or any other third party purporting to know appellant's whereabouts; (4) there was evidence before the trial court that appellant is a person with a mental illness; (5) there was no evidence before the trial court that

appellant lacked the required mental capacity to prosecute her appeal on her own behalf; and (6) there was evidence before the trial court that appellant, acting on her own behalf, had the wherewithal to prepare her own notice of appeal, file it with the appropriate clerk, and investigate local agencies that might be able to provide her with pro bono legal services. Consequently, the trial court concluded that appellant had abandoned her appeal and Cartwright should be permitted to withdraw as appellant's counsel.

Based on the trial court's findings of fact and conclusions of law, all of which are supported by the record, we reinstate the appeal, permit Martina Cartwright to withdraw as appellant's counsel for this appeal, and dismiss the appeal for want of prosecution.

PER CURIAM

Panel consists of Chief Justice Christopher and Justices Wise and Hassan.