



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00481-CR

Terry Shawn **LINVILLE**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 66th Judicial District Court, Hill County, Texas
Trial Court No. 37,777
Honorable F.B. (Bob) McGregor, Jr., Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Santee Bryan Marion, Justice

Delivered and Filed: December 11, 2013

DISMISSED FOR WANT OF PROSECUTION

On August 13, 2013, this appeal was abated to the trial court to determine whether appellant is indigent and entitled to have the appellate record furnished without cost (TEX. R. APP. P. 20.2) and whether appellate counsel should be appointed to represent appellant. On September 13, 2013, the trial court conducted a hearing and signed an order finding that appellant is not indigent. On September 16, 2013, this court ordered the appeal to be reinstated on our docket and ordered appellant to provide written proof to this court no later than September 30, 2013, that the clerk's and reporter's fees for preparing the record in this appeal had been paid or arrangements

had been made to pay the fees. Our order stated that if appellant failed to respond within the time provided, this appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 37.3(b).

On September 25, 2013, appellant filed a pro se letter in this court stating that the land he previously owned was foreclosed on. On October 10, 2013, Danny D. Burns filed a motion requesting an extension of time for appellant to file a response to this court's order of September 16, 2013. Mr. Burns stated that he was not retained to represent appellant in the appeal but was working pro bono on his behalf. Mr. Burns stated that he was seeking to have the trial court reconsider its decision with regard to appellant's indigence. This court granted the motion, extending the deadline for filing a response to October 29, 2013. On October 15, 2013, appellant filed a pro se letter restating his position that he is indigent and unable to pay for a record.

In the interest of justice, this court, on its own motion, extended the deadline for responding to this court's September 16, 2013 to November 25, 2013. Mr. Burns was ordered to provide a written status report by that date updating this court as to whether a motion to reconsider has been filed in the trial court with regard to appellant's indigence. The order cautioned that if no further action was taken in the trial court by November 25, 2013, this appeal would be dismissed for want of prosecution. *See* TEX. R. APP. P. 37.3(b). No status report was filed in this court in response to our prior order; however, the trial court filed a letter in this court stating that neither a sworn application of indigency nor a formal motion to reconsider was filed with the court. Accordingly, this appeal is dismissed for want of prosecution. *Id.*

PER CURIAM

DO NOT PUBLISH