

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-12-00307-CR

JANSON MICHAEL DURNEY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Court at Law No. 5
Montgomery County, Texas
Trial Cause No. 11-272011

MEMORANDUM OPINION

The trial court convicted Janson Michael Durney of the misdemeanor offense of failure to identify and assessed a one year jail term and a \$500 fine as punishment, then suspended the imposition of the jail sentence and placed Durney on community supervision for eighteen months. *See* Tex. Penal Code Ann. § 38.02(b), (d)(2) (West 2011). Representing himself *pro se* and without claiming indigence, Durney appealed but did not make payment arrangements for the record. After giving notice and providing an opportunity to cure, we dismissed the appeal. *See* Tex. R. App. P. 37.3(b). We granted

Durney's motion to reinstate after we received the clerk's record, but he failed to file a brief. We remanded the case to the trial court with instructions to determine whether Durney desires to prosecute his appeal. *See* Tex. R. App. P. 38.8(b)(2). After conducting a hearing, which Durney failed to attend, the trial court found that the appellant no longer desires to pursue the appeal.

Durney's failure to file a brief constitutes abandonment of the appeal. *See Parker v. State*, 69 S.W.3d 677, 678 (Tex. App.—Waco 2002, no pet.). Durney is not indigent and has failed to make arrangements for filing a brief. Accordingly, we exercise our authority to consider this appeal without briefs. *See* Tex. R. App. P. 38.8(b)(4). We review the record in the interest of justice. *Lott v. State*, 874 S.W.2d 687, 688 (Tex. Crim. App. 1994). Our review of the record has not revealed an error requiring reversal on unassigned error. We affirm the trial court's judgment.

APPEAL DISMISSED.

DAVID GAULTNEY
Justice

Opinion Delivered March 27, 2013
Do Not Publish

Before McKeithen, C.J., Gaultney and Kreger, JJ.