

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-14-00228-CR**

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**GREGORY ALLEN DERUTTE, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Court at Law No. 3**  
**Jefferson County, Texas**  
**Trial Cause No. 287595**

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**MEMORANDUM OPINION**

A jury found Gregory Allen DeRutte guilty of driving while intoxicated, and the trial court sentenced him to one year of confinement and assessed a \$2000 fine, then suspended imposition of DeRutte's sentence and placed DeRutte on community supervision for two years. DeRutte filed a *pro se* notice of appeal. The court reporter filed a notice stating that the reporter's record was not filed because the reporter's fee has not been paid. After DeRutte failed to respond to this Court's notices indicating that his brief

was overdue, we abated the appeal and remanded the cause to the trial court for a hearing. *See* Tex. R. App. P. 38.8(b)(2), (3).

The trial court held the hearing, and DeRutte failed to appear. Attached as exhibits to the record of the hearing were the notice the clerk had sent to DeRutte and a copy of the envelope in which it was mailed to DeRutte at his last known address. The trial court found that DeRutte no longer wishes to move forward with his appeal.

DeRutte's failure to file a brief constitutes abandonment of the appeal. *See Parker v. State*, 69 S.W.3d 667, 678 (Tex. App.—Waco 2002, no pet.). DeRutte has not claimed indigence 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 clerk's record in the interest of justice. *See Lott v. State*, 874 S.W.2d 687, 688 (Tex. Crim. App. 1994); *see* Tex. R. App. P. 37.3(c). Our review of the limited record presented does not justify reversal on unassigned error. We affirm the trial court's judgment.

AFFIRMED.

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STEVE McKEITHEN  
Chief Justice

Submitted on March 31, 2015  
Opinion Delivered April 1, 2015  
Do Not Publish

Before McKeithen, C.J., Horton and Johnson, JJ.