



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-17-00016-CV

IN THE MATTER OF R.R.

FROM COUNTY COURT AT LAW NO. 1 OF DENTON COUNTY
TRIAL COURT NO. JV-2016-00617

MEMORANDUM OPINION¹ AND JUDGMENT

On December 21, 2016, the trial court, sitting as a juvenile court, signed an order waiving jurisdiction over this case and transferring R.R., a sixteen-year-old juvenile, to district court. See Tex. Fam. Code Ann. § 54.02 (West 2014). R.R.'s retained counsel filed a notice of appeal on January 12, 2017, followed by a motion

¹See Tex. R. App. P. 47.4.

for extension of time to file a notice of appeal. See Tex. R. App. P. 10.5(b), 26.1(b), 26.3(b).

The appellate record was due on January 23, 2017, and the trial-court clerk timely filed the clerk's record. The next day, the court reporter filed a letter stating that R.R. was unable to pay for the reporter's record and that, without payment, the reporter was unable to prepare and file the record.

On January 25, 2017, we granted R.R.'s motion for extension of time to file her notice of appeal. In the order granting the motion, we stated that the reporter's record was due on February 6, 2017; it was never filed. Additionally, this court never received our filing fee and got no response to our three letters warning that this case was subject to dismissal on that basis. Because we did not receive the reporter's record or any response to our correspondence, we abated the appeal on March 2, 2017, for the trial court to hold a hearing with R.R., her retained counsel, her mother, and a representative from the State present to determine, in part, whether R.R. wanted to prosecute the appeal and, if so, whether she was indigent, whether she was entitled to appointed counsel, and whether she was entitled to a record without charge. See *generally* Tex. Fam. Code Ann. § 56.02 (West 2004), §§ 51.10, 56.01 (West Supp. 2016). At the abatement hearing, R.R.'s retained counsel stated, "I have spoken with [R.R.] and her mother, and we have decided we do not want to prosecute this appeal."²

²R.R.'s mother and representatives from the State were also present at the abatement hearing. R.R. was not in attendance because she was hospitalized,

After we issued our abatement order, but before the abatement hearing, R.R. moved to dismiss the appeal. We have considered R.R.'s motion, and it is the court's opinion that it should be granted. Therefore, we dismiss the appeal. See Tex. R. App. P. 42.1(a)(1), 43.2(f); see *also* Tex. Fam. Code Ann. § 56.01(b) ("The requirements governing an appeal [in a juvenile proceeding] are as in civil cases generally.").

The party incurring appellate costs must pay them, for which let execution issue. See Tex. R. App. P. 42.1(d).

/s/ Elizabeth Kerr
ELIZABETH KERR
JUSTICE

PANEL: GABRIEL, SUDDERTH, and KERR, JJ.

DELIVERED: April 13, 2017

but her retained counsel stated that he had spoken with her and that he had her permission to appear on her behalf.