

NO. 07-01-0219-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL A  
DECEMBER 18, 2001

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SOTERO BENAVIDES, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

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FROM THE 106<sup>TH</sup> DISTRICT COURT OF LYNN COUNTY;  
NO. 95-2274; HONORABLE GEORGE HANSARD, JUDGE

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Before BOYD, C.J., and REAVIS and JOHNSON, JJ.

Appellant Sotero Benavides filed a notice of appeal from the trial court's order revoking his community supervision and sentencing him to two years confinement in the Institutional Division of the Department of Criminal Justice. We previously abated this appeal to the trial court because we had not received a clerk's record or a reporter's record. The court reporter also notified this court that there had been no designation of

the record, and appellant had not paid or made arrangements to pay for the record. Further, the attorney who represented appellant at trial executed an affidavit stating that, although he filed the notice of appeal, he had neither been hired by appellant to represent him nor been appointed by the court to represent him.

As a result of that abatement, appellant has signed an affidavit, which has been included in a clerk's record, indicating that he does not wish to pursue his appeal. Although appellant has not complied with the technical requirements of Rule 42.2(a) of the Rules of Appellate Procedure which call for the filing of a written withdrawal with this court, we believe appellant has substantially complied with the requirements or, in the alternative, we have the authority, pursuant to Rule 2 of the Rules of Appellate Procedure, to suspend the operation of Rule 42.2(a) for this appeal only, and find that appellant has voluntarily dismissed his appeal by virtue of his affidavit.

Therefore, because the record shows appellant no longer desires to pursue his appeal, it is hereby dismissed.

John T. Boyd  
Chief Justice

Do not publish.