

NO. 07-03-0396-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL D  
DECEMBER 15, 2003

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KEVIN M. McELROY,  
Appellant

v.

THE STATE OF TEXAS,  
Appellee

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FROM THE 364TH DISTRICT COURT OF LUBBOCK COUNTY;  
NO. 2002-400,318; HON. BILLY JOHN EDWARDS, PRESIDING

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***Order of Dismissal***

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Before QUINN, REAVIS and CAMPBELL, JJ.

Pending before the court is the appeal of Kevin M. McElroy (appellant). We abated the matter to the trial court on November 26, 2003, because appellant failed to file his brief. At the hearing convened by the trial court per our directive, appellant informed it that he no longer cared to prosecute his appeal. The trial court memorialized the representation in its findings of fact and conclusions of law. So too was the representation

memorialized in appellant's motion to dismiss that was filed with the trial court and signed by both appellant and his counsel.

Accordingly, we reinstate the appeal and dismiss it upon appellant's request. Having so dismissed it, no motion for rehearing will be entertained, and our mandate will issue forthwith.

Brian Quinn  
Justice

Do not publish.