

NO. 07-11-0180-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
AUGUST 3, 2011

HAROLD DEAN OSBORN,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 47th DISTRICT COURT OF RANDALL COUNTY;

NO. 15,038-A; HON. DAN SCHAAP, PRESIDING

ON ABATEMENT AND REMAND

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Appellant appeals from his conviction for aggravated assault with a deadly weapon. The clerk's record was filed on June 28, 2011. The reporter has requested an extension of time to file the record, stating that appellant has not submitted a request to prepare the record, nor has he paid or made arrangements to pay for the record. Counsel for appellant contacted this court on July 13, 2011, representing that appellant no longer wishes to appeal. On July 22, 2011, appellant's counsel stated that he would

send this court a motion to dismiss. To date, no motion to dismiss has been received by the Court.

Accordingly, we abate this appeal and remand the cause to the 47th District Court of Randall County (trial court) for further proceedings. Upon remand, the trial court shall determine, by reasonable evidentiary procedure it selects, the following:

1. whether appellant desires to prosecute the appeal;
2. whether appellant is indigent; and, if so,
3. whether the appellant is entitled to a free record or appointed counsel.

The trial court is also directed to enter such orders necessary to address the aforementioned questions. So too shall it include its findings on those matters (including the name, address, and phone number of any attorney it may appoint to represent appellant in this appeal) in a supplemental record and cause that record to be filed with this court by September 2, 2011. Should further time be needed to perform these tasks, then same must be requested before September 2, 2011.

It is so ordered.

Per Curiam

Do not publish.