

NO. 07-12-0049-CR
NO. 07-12-0050-CR

IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
MARCH 27, 2012

JESSE ANTONIO GAITAN,

Appellant

V.

THE STATE OF TEXAS,

Appellees

FROM THE 271st DISTRICT COURT OF WISE COUNTY;
NOS. CR16105 and CR16106; HON. JOHN H. FOSTEL, PRESIDING

ON ABATEMENT AND REMAND

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

Appellant Jesse Antonio Gaitan appeals from his convictions for the offenses of tamper/fabricate physical evidence with intent to impair and unlawful possession of a firearm by a felon. On January 12, 2012, the clerk's records were filed. On January 20, 2012, the reporter filed extensions of time to file the records, which were granted by the Second Court of Appeals to March 16, 2012, with the provision that "no further request for extension of time should be necessary." On January 26, 2012, these cases were

transferred to the Seventh Court of Appeals. To date, no status report or reporter's records have been filed.

Accordingly, we abate these appeals and remand the causes to the 271st District Court of Wise County (trial court) for further proceedings. Upon remand, the trial court shall immediately cause notice of a hearing to be given and, thereafter, conduct a hearing to determine:

when the reporter's records can reasonably be transcribed into written form and filed in a manner that does not further delay the prosecution of this appeal or have the practical effect of depriving the appellant of his right to appeal.

The trial court shall cause the hearing to be transcribed. So too shall it 1) execute findings of fact and conclusions of law addressing the foregoing issue, 2) cause to be developed a supplemental clerk's record containing its findings of fact and conclusions of law and all orders it may issue as a result of its hearing in this matter, and 3) cause to be developed a reporter's record transcribing the evidence and arguments presented at the aforementioned hearing, if any. Additionally, the district court shall then file the supplemental clerk's and reporter's records transcribing the hearing with the clerk of this court on or before April 19, 2012. Should further time be needed by the trial court to perform these tasks, then same must be requested before April 19, 2012.

It is so ordered.

Per Curiam

Do not publish.