



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-13-00397-CR

TYLER MCDANIEL, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

**On Appeal from County Court at Law Number One
Lubbock County, Texas
Trial Court No. 2012-470,096; Honorable Mark Hocker, Presiding**

February 27, 2014

ABATEMENT AND REMAND

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

Following a plea of not guilty, Appellant, Tyler McDaniel, was convicted by a jury of misdemeanor driving while intoxicated and sentenced to 180 days confinement in the Lubbock County jail.¹ He filed a *pro se* notice of appeal. After an extension of time was granted, the clerk's record was filed on January 13, 2014. The reporter's record was due on December 13, 2013, and an extension of time was granted to January 16, 2014.

¹ TEX. PENAL CODE ANN. § 49.04(b) (West Supp. 2013) and § 12.22 (West 2011).

A subsequent extension was granted to January 29, 2014. The reporter's record was not filed and, by letter dated February 5, 2014, delivered via e-mail, this Court notified the official court reporter of the deficiency and requested that she advise on the status of the record on or before February 18, 2014. No response was filed and to date, the reporter's record remains outstanding.

The court reporter is responsible for preparing, certifying and timely filing the reporter's record. TEX. R. APP. P. 35.3(b). Additionally, trial and appellate courts are jointly responsible for ensuring that the appellate record is timely filed. TEX. R. APP. P. 35.3(c). Consequently, we now abate this appeal to the trial court for further proceedings.

Upon remand, the trial court shall utilize whatever means necessary to determine the reasons for the delay in the filing of the reporter's record and take such action as is necessary to ensure the filing of same on or before March 17, 2014. The trial court shall enter findings of fact and conclusions of law and shall cause its findings, conclusions and any necessary orders to be included in the clerk's record.

It is so ordered.

Per Curiam

Do not publish.