



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

No. 07-15-00350-CR

DANIEL LEE HELSLEY, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 251st District Court
Randall County, Texas
Trial Court No. 25,538-C, Honorable Ana Estevez, Presiding

April 28, 2016

ABATEMENT AND REMAND

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

Appellant Daniel Lee Helsley appeals his conviction for sexual assault of a child. Appellant's brief was due on March 2, 2016. On March 7, appellant filed a motion to extend the time to file his brief and this court granted an extension to April 1. However, appellant failed to file a brief by this deadline. By letter dated April 8, the court notified appellant that his brief was overdue and admonished appellant's counsel that failure to file a brief by April 18 would result in the appeal being abated and the cause remanded to the trial court for further proceedings without further notice. See TEX. R. APP. P. 38.8(b)(2), (3). To date, appellant has not filed a brief or had any further communications with this court.

Accordingly, we abate this appeal and remand the cause to the 251st District Court of Randall County (trial court) for further proceedings. Upon remand, the trial court shall determine the following:

1. whether appellant desires to prosecute the appeal;
2. whether appellant is indigent;
3. why a timely appellate brief has not been filed on behalf of appellant;
4. whether appellant has been denied the effective assistance of counsel due to counsel's failure to timely file an appellate brief, see *Ex parte Briggs*, 187 S.W.3d 458, 467 (Tex. Crim. App. 2005) (holding "a reasonably competent attorney--regardless of whether he is retained or appointed--must seek to advance his client's best defense in a reasonably competent manner");
5. whether new counsel should be appointed; and
6. if appellant desires to continue the appeal, the date the court may expect appellant's brief to be filed.

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 in a supplemental record and cause that record to be filed with this court by May 31, 2016. If it is determined that appellant desires to proceed with the appeal, is indigent, and has been denied the effective assistance of counsel, the trial court may appoint him new counsel; the name, address, and phone number of any new counsel appointed shall be included in the aforementioned findings. Should further time be needed to perform these tasks, then same must be requested before May 31, 2016.

It is so ordered.

Per Curiam

Do not publish.