



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

No. 07-16-00463-CR

MICHELLE ARAUJO, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 110th District Court
Floyd County, Texas
Trial Court No. 4337, Honorable William P. Smith, Presiding

March 20, 2017

ORDER OF ABATEMENT AND REMAND

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

Appellant Michelle Araujo appeals her conviction for aggravated assault with a deadly weapon. The appellate record has been filed and appellant's brief was originally due on February 17, 2017, but was not filed by that date. By letter dated February 24, 2017, the court notified appellant that his brief was overdue and admonished appellant's counsel that failure to file a brief by March 6, 2017, 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 neither filed a brief nor had any further communications with this court.

Accordingly, we abate this appeal and remand the cause to the 110th District Court of Floyd 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. 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");
4. whether new counsel should be appointed; and
5. if appellant desires to continue the appeal, the final date on which appellant will file the appellant's brief.

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 April 19, 2017. 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, email 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 April 19, 2017.

It is so ordered.

Per Curiam

Do not publish.