



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

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No. 07-17-00219-CR

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**EX PARTE MALLORIE BROOKE BASIO**

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On Appeal from the 35th District Court  
Brown County, Texas  
Trial Court No. CR23937-A, Honorable Stephen Ellis, Presiding

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October 2, 2017

**ORDER OF ABATEMENT AND REMAND**

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

The State appeals the trial court's order granting appellee Mallorie Brooke Basio's article 11.072 application for writ of habeas corpus, setting aside the order deferring adjudication and imposing community supervision on appellee, and granting a new trial.<sup>1</sup> See TEX. CODE CRIM. PRAC. art. 11.072, § 8 (West 2015); art. 44.01(a)(3), (k) (West Supp. 2016). The appellate record has been filed. The State's brief was originally due on September 5, 2017, but was not filed by that date. By letter of September 12, 2017, the court notified the State that its brief was overdue and directed the district attorney to file a brief by September 22, 2017. See TEX. R. APP. P. 38.8(b).

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<sup>1</sup> By order of the Supreme Court of Texas, this appeal was transferred from the Eleventh Court of Appeals to this court. See TEX. GOV'T CODE ANN. § 73.001 (West 2013).

To date, the State has neither filed a brief nor had any further communication with this court.

Accordingly, we abate this appeal and remand the cause to the 35th District Court of Brown County (trial court) for further proceedings. Upon remand, the trial court shall determine the following:

1. whether the State desires to prosecute the appeal;
2. whether the district attorney has abandoned the appeal; and
3. if the State desires to continue the appeal, the final date on which the State will file a 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 October 20, 2017. Should further time be needed to perform these tasks, then same must be requested before October 20, 2017.

It is so ordered.

Per Curiam

Do not publish.