



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

No. 07-17-00349-CR

RICHARD AQUIRRE, JR., APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 84th District Court
Ochiltree County, Texas
Trial Court No. 5183, Honorable Curt Brancheau, Presiding

May 17, 2018

ORDER OF ABATEMENT AND REMAND

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

Pending before the court is an appeal by Richard Aguirre, Jr. from his criminal conviction. His attorney filed a motion to dismiss the appeal in which we were told that appellant no longer desired to prosecute the matter. The motion failed to comply with the rules of appellate procedure. That is, appellant's signature did not appear on the document as required by Rule 42.2(a). See TEX. R. APP. P. 42.2(a). We brought this omission to the attention of appellant's attorney, Todd Alvey, and directed Alvey to file a corrected motion by May 9, 2018, complying with that rule. No corrected motion has been

filed. Nor has Alvey deigned to provide us with any explanation why he failed to heed our directive. Accordingly, we abate the appeal and remand the cause to the trial court.

The trial court is ordered to convene a hearing, upon reasonable notice, to determine whether appellant (1) desires to prosecute this appeal, and (2) is indigent. If both answers to those questions are yes, then the trial court shall also determine whether appellant has been denied the effective assistance of counsel. The argument and evidence, if any, presented at the hearing will be transcribed into a supplemental reporter's record, which record the trial court shall cause to be filed with the Clerk of this Court by June 7, 2018. The trial court must also execute any written findings of fact and conclusions of law relevant to the matter. If it is determined that appellant desires to prosecute the appeal, is indigent, and has been denied the effective assistance of counsel, then the trial court shall appoint new counsel to represent appellant. So too must it include in its findings the name, address, and state bar number of the newly appointed counsel. The findings of fact executed by the trial court also shall be included in a supplemental clerk's record which the trial court will cause to be filed with the Clerk of this Court by June 7, 2018. Should further time be needed to complete the foregoing tasks, same must be requested before June 7, 2018.

It is so ordered.

Per Curiam

Do not publish.