



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

No. 07-17-00438-CR

JASON GONZALES, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 140th District Court
Lubbock County, Texas
Trial Court No. 2014-401,483, Honorable Jim Bob Darnell, Presiding

February 13, 2018

MEMORANDUM OPINION

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

Pursuant to a plea-bargain agreement, appellant Jason Gonzales pled guilty to fraudulent use or possession of another person's identifying information. The trial court accepted the plea bargain and sentenced appellant to thirteen months confinement, giving him credit for his pre-sentence jail time. For reasons unclear in the record, the trial court also granted appellant permission to appeal. See TEX. R. APP. P. 25.2(a)(2)(B). His appointed counsel filed this appeal.

Before appellant's brief was due, his counsel filed a motion to remand the cause to the trial court to determine whether appellant still desired to prosecute the appeal.

According to the motion, appellant had agreed to dismiss the appeal, as part of his plea bargain with the State, after his jail-time credit was processed. This was completed, and it was determined that appellant had served his sentence in full. However, counsel was unable to locate appellant to sign a motion to dismiss. See TEX. R. APP. P. 42.2(a). We, therefore, granted appellant's motion and remanded the cause to the trial court to determine whether appellant still desired to prosecute the appeal.

After sending written notice to appellant's last known address, the trial court held a hearing on February 2, 2018. Appellant did not appear and counsel informed the trial court that she could not locate appellant. The trial court, thus, issued findings of fact recommending that the appeal be dismissed.

Rather than dismiss, we have submitted the appeal for consideration without briefs. See TEX. R. APP. P. 38.8(b)(4) (permitting an appellate court to consider an appeal without briefs as justice may require); *Delgado-Gutierrez v. State*, 369 S.W.3d 909, 910-11 (Tex. App.—Amarillo 2012, no pet.) (considering an appeal without briefs after appellant failed to communicate with counsel and the trial court and made no indication of his desire to continue the appeal). We have reviewed the clerk's record and reporter's record for fundamental error and have found none that would require reversal. See *Lott v. State*, 874 S.W.2d 687, 688 (Tex. Crim. App. 1994).

We, therefore, affirm the judgment of the trial court.

Brian Quinn
Chief Justice

Do not publish.