



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

No. 07-18-00018-CR

ANTHONY EARL RUSSELL, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the Criminal District Court No. 1
Tarrant County, Texas¹
Trial Court No. 1463618D, Honorable Elizabeth Beach, Presiding

May 30, 2018

ORDER OF ABATEMENT AND REMAND

Before CAMPBELL and PIRTLE and PARKER, JJ.

Appellant, Anthony Earl Russell, appeals his conviction for assault of a family or household member, enhanced to a third-degree felony by a prior conviction of family violence,² and the resulting sentence of five years imprisonment. Appellant's brief was originally due April 30, 2018, but appellant did not file a brief by this deadline. By letter of May 9, 2018, we notified appellant's counsel, Ms. Harmony Schuerman, that the brief was overdue and admonished her that failure to file a brief by May 21 would result in the

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

² TEX. PENAL CODE ANN. § 22.01(a)(1), (b)(2)(A) (West Supp. 2017).

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, Ms. Schuerman has not filed a brief or had any further communication with this Court.

Accordingly, we abate this appeal and remand the cause to the Criminal District Court Number 1 of Tarrant County (trial court) for further proceedings. See TEX. R. APP. P. 38.8(b)(2), (3). 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;
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 June 29, 2018. 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 June 29, 2018.

It is so ordered.

Per Curiam

Do not publish.