



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

No. 07-18-00129-CR

RAYMOND SAMBOW VARGAS, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 29th District Court
Palo Pinto County, Texas¹
Trial Court No. 16044, Honorable Michael Moore, Presiding

May 31, 2018

ORDER OF ABATEMENT AND REMAND

Before CAMPBELL and PIRTLE and PARKER, JJ.

Appellant, Raymond Sambow Vargas, was convicted of continuous family violence, enhanced to a second-degree felony by a prior felony conviction,² and sentenced to twenty years imprisonment. Appellant's retained counsel, Mr. Brett Ordiway, filed a notice of appeal. Now pending before this Court is counsel's *Motion to*

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

² TEX. PENAL CODE ANN. § 25.11 (West 2011), § 12.42(a) (West Supp. 2017).

Withdraw from Representing Appellant and to Abate this Appeal to the Trial Court to Determine Whether Appellant is Indigent. We grant the motion.

The appellate record has been filed and appellant's brief was originally due May 9, 2018. Appellant did not file a brief by this deadline. By letter of May 16, 2018, we notified appellant's counsel that the brief was overdue and admonished him that failure to file a brief by May 29 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). On May 17, 2018, appellant's counsel filed a motion seeking to withdraw as counsel and requesting that we remand the cause to the trial court to determine whether appellant is indigent and entitled to appointed counsel.

We grant counsel's motion to withdraw, abate the appeal, and remand the cause to the 29th District Court of Palo Pinto County (trial court) for further proceedings. See TEX. R. APP. P. 6.5; 38.8(b)(2), (3). Upon remand, the trial court shall determine the following:

1. whether appellant desires to prosecute the appeal; and
2. whether appellant is indigent and entitled to appointed counsel.

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 July 2, 2018. If it is determined that appellant desires to proceed with the appeal and is indigent, the trial court shall appoint him counsel; the name, address, email address, and phone number

of any counsel appointed shall be included in the aforementioned findings. Should further time be needed to perform these tasks, then same must be requested before July 2, 2018.

It is so ordered.

Per Curiam

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