



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

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No. 07-18-00151-CR

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**JOE MENDEZ, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 140th District Court  
Lubbock County, Texas  
Trial Court No. 2017-411,742, Honorable Jim Bob Darnell, Presiding

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November 20, 2018

**ORDER OF ABATEMENT AND REMAND**

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

Appellant Joe Mendez appeals his conviction for possession of a controlled substance with intent to deliver<sup>1</sup> and sentence to ten years' confinement. The clerk's record was filed on August 1, 2018, and the reporter's record was filed on August 20. Consequently, appellant's brief was originally due by September 19. We subsequently granted appellant an extension to file his brief until October 19, but the brief was not filed

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<sup>1</sup> TEX. HEALTH & SAFETY CODE ANN. § 481.112(d) (West 2017).

by this deadline. By letter of October 29, we notified appellant that his brief was overdue and directed him to file a brief by November 8. We also admonished appellant that failure to file a brief by this deadline 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). To date, appellant has not filed a brief and we have received no further communication from him.

We, therefore, abate this appeal and remand the cause to the trial court for further proceedings pursuant to Texas Rule of Appellate Procedure 38.8(b). On remand, the trial court shall utilize whatever means it finds necessary to determine the following:

1. whether appellant still desires to prosecute his appeal;
2. whether appellant is indigent;
3. why appellant's appointed counsel has not timely filed an appellate brief;
4. whether appellant has been denied the effective assistance of counsel;
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.

Should the trial court determine that appellant desires to prosecute the appeal, is indigent, and has been denied the effective assistance of counsel, the trial court shall appoint new appellate counsel. The name, address, e-mail address, telephone number, and state bar number of any newly-appointed counsel shall be provided to the Clerk of this Court in an order of the trial court.

The trial court shall issue findings of fact and conclusions of law addressing the foregoing subjects and shall cause to be developed (1) a supplemental clerk's record containing the findings of fact and conclusions of law and (2) a supplemental reporter's record transcribing any evidence and argument presented. The trial court shall also cause the record containing the court's findings and conclusions and any hearing record to be filed with the Clerk of this Court on or before December 20, 2018.

It is so ordered.

Per Curiam

Do not publish.