



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

Nos. 07-19-00021-CR
07-19-00022-CR

CARLOS OTILIO GONZALEZ, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

**On Appeal from the 187th District Court
Bexar County, Texas
Trial Court Nos. 2010CR6300A & 2010CR6301A; Honorable Joey Contreras, Presiding**

February 20, 2019

ABATEMENT AND REMAND

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

In 2011, Appellant, Carlos Otilio Gonzalez, was granted deferred adjudication community supervision for five years and assessed a \$1,500 fine for two separate offenses of burglary of a habitation.¹ In 2016, the trial court adjudicated Appellant guilty

¹ TEX. PENAL CODE ANN. § 30.02(a), (c)(2) (West Supp. 2018).

of the offenses, and sentenced him to ten years confinement and assessed a fine of \$1,500 for each offense. The trial court suspended the sentences in favor of community supervision for five years. In 2018, the State moved to revoke Appellant's community supervision based on his violations of its terms and conditions. Appellant plead true to the State's allegations, and the trial court revoked his community supervision. Appellant was sentenced to six years confinement and assessed a \$1,500 fine for each offense, with the sentences to run concurrently. Appellant filed a notice of appeal, *pro se*. However, Mr. Armando G. Martinez later entered a notice of appearance as retained counsel. On January 3, 2019, Appellant filed a motion for appointment of appellate counsel with the trial court. The trial court has yet to rule on the motion.

The clerk's record and reporter's record were due January 14, 2019. The clerk's record was timely filed, but the reporter's record was not filed because Appellant has not made acceptable payment arrangements for the record. See TEX. R. APP. P. 35.3(b)(3). By letter on January 15, we directed Appellant to make acceptable payment arrangements for the reporter's record by January 25. Failure to do so, we advised, could result in the appeals being abated and the causes remanded to the trial court for further proceedings. See TEX. R. APP. P. 37.3(a)(2). The reporter has again notified the court that Appellant has not made payment arrangements for the reporter's record to date.

Accordingly, we abate the appeals and remand the causes to the trial court for further proceedings. See TEX. R. APP. P. 37.3(a)(2). On remand, the trial court shall utilize whatever means it finds necessary to determine the following:

- (1) whether Appellant still desires to prosecute the appeals;

- (2) whether Appellant is indigent and entitled to the appointment of appellate counsel;
- (3) whether Appellant is entitled to have the reporter's record furnished without charge pursuant to Texas Rule of Appellate Procedure 20.2; and
- (4) if Appellant is not entitled to have the reporter's record furnished without charge, the date Appellant will make acceptable payment arrangements for the reporter's record.

Should it be determined that Appellant wants to continue the appeals, is indigent, and entitled to appointed counsel, the name, address, email address, telephone number, and State Bar of Texas identification number of newly-appointed counsel shall be provided to the clerk of this court. The trial court shall execute findings of fact, conclusions of law, and any necessary orders addressing the foregoing subjects. The trial court shall also cause to be developed (1) a clerk's record containing the findings of fact, conclusions of law, and any necessary orders; and (2) a reporter's record transcribing the evidence and argument presented at any hearing held. The trial court shall cause the record to be filed with the clerk of this court on or before March 29, 2019.

It is so ordered.

Per Curiam

Do not publish.