



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

No. 07-19-00126-CR

FRITZ KEITH PETERS, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 385th District Court
Midland County, Texas
Trial Court No. CR48226, Honorable Jeffrey Todd Robnett, Presiding

September 13, 2019

ORDER OF ABATEMENT AND REMAND

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

Appellant Fritz Keith Peters appeals his conviction for forgery of a financial instrument. Appellant's brief was due on August 12, 2019, but was not filed. By letter of August 19, 2019, we notified appellant's counsel that the brief was overdue and admonished him that failure to file a brief by August 29 would result in the appeal being abated and the cause remanded to the trial court for further proceedings. TEX. R. APP. P. 38.8(b)(2), (3). To date, appellant's counsel has not filed a brief or had any further communication with this court.

Accordingly, we abate this appeal and remand the cause to the trial court for further proceedings. Upon remand, the trial court shall determine the following:

1. whether appellant still desires to prosecute the appeal;
2. whether appellant is indigent;
3. whether appellant has been denied the effective assistance of counsel due to counsel's failure to timely file an appellate brief, see *Ex parte Briggs*, 187 S.W.3d 458, 467 (Tex. Crim. App. 2005) (holding "a reasonably competent attorney—regardless of whether he is retained or appointed—must seek to advance his client's best defense in a reasonably competent manner");
4. whether new counsel should be appointed; and
5. if appellant desires to continue the appeal, the final date on which appellant will file appellant's brief.

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 October 11, 2019. 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 October 11, 2019.

It is so ordered.

Per Curiam

Do not publish.