



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

No. 07-22-00010-CR

JOSE LUIS GOMEZ JR., APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

**On Appeal from the 424th District Court
Burnet County, Texas
Trial Court No. 50374 (Counts II & V), Honorable Evan C. Stubbs, Presiding**

July 27, 2022

MEMORANDUM OPINION

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

Appellant, Jose Luis Gomez Jr., appeals¹ his conviction for unlawful possession of a firearm,² and possession of marijuana.³ Because Appellant's appointed counsel has

¹ Originally appealed to the Third Court of Appeals, this appeal was transferred to this Court by the Texas Supreme Court pursuant to its docket equalizations efforts. See TEX. GOV'T CODE ANN. § 73.001.

² See TEX. PENAL CODE ANN. § 46.04(e).

³ See TEX. HEALTH & SAFETY CODE ANN. § 481.121(b)(3).

failed to file an appellate brief, we remand the cause to the trial court for further proceedings.

Appellant's brief was originally due April 4, 2022, but we granted Appellant's counsel, Kyle Ernst, two extensions to file a brief. By letter of May 23, 2022, we admonished counsel that failure to file a brief by June 3 could result in the appeal being abated and the cause remanded to the trial court for further proceedings without further notice. On July 27, 2022, Appellant's counsel filed a fourth motion requesting an extension of time to file a brief due to caseload. Because Appellant's counsel has not provided sufficient grounds for extending the briefing deadline any further, we deny the motion for extension.

Accordingly, we abate this appeal and remand the cause to the 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 still desires to prosecute the appeal;
- (2) whether Appellant is indigent;
- (3) why a timely appellate brief has not been filed on Appellant's behalf;
- (4) whether Appellant's counsel has abandoned the appeal;
- (5) whether Appellant has been denied the effective assistance of counsel;
- (6) whether new counsel should be appointed; and
- (7) if Appellant desires to continue the appeal, the date the Court may expect Appellant's brief to be filed.

The trial court is 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 August 26, 2022. 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, telephone number, and state bar number of any newly appointed counsel shall be included in the aforementioned findings.

Should Ernst file a brief on or before August 8, 2022, he is directed to immediately notify the trial court of the filing, in writing, whereupon the trial court shall not be required to take any further action.

It is so ordered.

Per Curiam

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