In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-22-00251-CR
No. 07-22-00252-CR

CHRISTOPHER BECHARA MOUCHANTAF, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the County Court
Deaf Smith County, Texas
Trial Court No. 2021-0282, 2021-0272, Honorable D.J. Wagner, Presiding

August 4, 2023

MEMORANDUM OPINION

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

Appellant, Christopher Bechara Mouchantaf, pleaded guilty to two misdemeanor offenses: unlawful restraint and possession of a usable amount of marijuana less than two ounces.[1] The trial court assessed punishment at 120 days of confinement in the

[1] *See* TEX. PENAL CODE ANN. §§ 20.02 (unlawful restraint), 481.121(B)(1) (possession of marijuana).

county jail and a $400 fine for each conviction, but suspended imposition of the sentence and placed Appellant on community supervision with conditions for 120 days.

Before trial, Appellant executed a waiver of his right to be represented by an attorney and exercised his right to represent himself. The trial court certified that it discussed with Appellant the dangers and disadvantages of self-representation and was satisfied Appellant's waiver was made knowingly, intelligently, and voluntarily.

In September 2022, Appellant timely filed a Notice of Appeal. In his Notice, Appellant indicated he was proceeding as a "pro se litigant." He attached a document titled, "Brief on the Merits" to the Notice. The document did not comply with the Texas Rules of Appellate Procedure because it lacked citations to the record and supporting authority.

After not receiving a brief on October 6, 2022, this Court informed Appellant the following week that no brief conforming with the rules had been received. We indicated that unless a brief was filed by October 24, his appeal would be abated, and the cause remanded to the trial court for further proceedings. By letter, Appellant responded that he had spoken to the clerk and would file a brief "in the coming days." This Court extended the time for filing his brief until November 7, 2022.

The November 7 deadline also passed without Appellant either filing a brief or requesting additional time to prepare one. Accordingly, in December 2022, the Court abated this appeal and remanded the cause to the trial court to hold an abatement hearing and determine, among other things, whether Appellant was indigent (potentially resulting in appointment of appellate counsel) and whether Appellant still desired to prosecute his

appeals. The trial court scheduled an abatement hearing for January 12, 2023. Appellant did not appear at the hearing and did not communicate with the court. In its Findings of Fact and Conclusions of Law, the trial court concluded Appellant no longer desired to prosecute his appeal, was not entitled to the appointment of appellate counsel, and determined that the remainder of our remand order was moot.

On January 20, 2023, this Court sent another notice to Appellant. Out of an abundance of caution that Appellant might incorrectly believe that the document attached to his Notice of Appeal constituted a brief, this Court's notice to Appellant specifically addressed the document's deficiencies under Rule 38.1 of the Texas Rules of Appellate Procedure: its statement of facts and argument were not supported by references to the appellate record or citation to legal authorities. By order of the court, Appellant was directed to file a corrected brief in compliance with Rule 38.1 in each cause by February 21, 2023.

February 21 has long passed. To date, Appellant has yet to file any brief. He has not communicated with the Court since his promise in the fall of 2022 to file a brief "in the coming days."

Analysis

This Court has given Appellant multiple opportunities to file a brief that conforms to the rules. Moreover, via remand order, the Appellant had an opportunity to appear before the trial court to provide an explanation of any continued desire to pursue his appeal and to present information that might allow appointment of legal counsel to

prepare a conforming brief on his behalf. Appellant has failed at every opportunity during the nine months his brief has been past-due.

The Texas Court of Criminal Appeals has said the following:

> A court's inherent power to dismiss a party's cause of action is usually reserved for those situations in which a party has failed to prosecute his action or in which a party has engaged in serious misconduct such as bad-faith abuse of the judicial process. The "absence of notice as to the possibility of dismissal or the failure to hold an adversary hearing" do[es] not necessarily render such a dismissal void particularly where the offending party should have known of the possible consequences of his misconduct or where some post-dismissal procedure exists where the offender may be heard.

Brager v. State, No. 0365-03, 2004 Tex. Crim. App. LEXIS 2203, at *3 (Tex. Crim. App. Oct. 13, 2004) (internal citation and bracketed materials omitted). In *Brager*, our state's highest criminal court upheld an appellate court's dismissal of a criminal appeal for want of prosecution when, as here, a pro se litigant failed to file a conforming brief or request additional time for preparation despite the passage of more than eight months, multiple court notices, and a remand to the trial court.

We hold that Appellant's conduct in missing multiple deadlines and failing to appear before the trial court demonstrates an intentional failure to comply with the requirements for pursuing an appeal and shows a lack of desire to pursue an appeal or cooperate with the juridical process. Under these circumstances, we conclude that this appeal was not taken with the intention of pursuing its completion, but was taken for other purposes unrelated to the case. *McReynolds v. State*, No. 07-10-00508-CR, 2011 Tex. App. LEXIS 2981, *4–5 (Tex. App.—Amarillo Apr. 19, 2011, no pet.) (citing *Meyer v. State*, 310 S.W.3d 24, 26 (Tex. App.—Texarkana 2020, no pet.). As such, we conclude that

Appellant "has engaged in dilatory and bad faith abuse of judicial process." *Id.* Consequently, we now invoke Rule 2 of the Texas Rules of Appellate Procedure, as well as our inherent authority to control the disposition of causes on our docket, and dismiss this appeal for Appellant's want of prosecution. *See* TEX. R. APP. P. 42.3(b); *Brager v. State*, 2004 Tex. Crim. App. LEXIS 2203, at *10; *Rodriquez v. State*, 970 S.W.2d 133, 135 (Tex. App.—Amarillo 1998, pet. ref'd).

Per Curiam

Do not publish.