



**IN THE
TENTH COURT OF APPEALS**

No. 10-12-00095-CR

MARCO AGUNDIZ CABRERA,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 85th District Court
Brazos County, Texas
Trial Court No. 10-03842-CRF-85**

ORDER

The appellant's brief is overdue in this appeal. The Clerk of the Court's January 16, 2013 letter to appellant's counsel states:

Appellant's brief was originally due on July 23, 2012. On October 3, 2012, the Court granted appellant's Second Motion for Extension of Time to File Appellant's Brief with this caveat: "Absent extraordinary circumstances, no further motions for extension of time to file the appellant's brief will be entertained."

Appellant's Third Motion for Extension of Time to File Appellant's Brief was filed on December 31, 2012. It does not set forth extraordinary circumstances, and to grant the requested extension would give

appellant's counsel an additional 220 days to accomplish that which the Rules allocate only 30 days. *See* TEX. R. APP. P. 38.6. Even when an extension may initially be justified, the Court must draw the limit at some point. The Court has reached that point in this appeal. *See Tyree v. State*, 342 S.W.3d 808, 809 (Tex. App.—Amarillo 2011, order) (“We no longer want to be told that ‘I am too busy with other stuff to do what you want.’”).

Appellant's Third Motion for Extension of Time to File Appellant's Brief is denied. **Appellant's brief is ordered to be filed within 14 days from the date of this order.** The failure of the Court to timely receive appellant's brief will result in the Court abating the appeal and ordering the trial court to immediately conduct a hearing under Rules of Appellate Procedure 38.8(b)(2) & (3).

Because appellant's brief was not filed within 14 days, we abate this appeal to the trial court to conduct any necessary hearings within 21 days of the date of this order in accordance with Texas Rule of Appellate Procedure 38.8(b)(2) and (3). TEX. R. APP. P. 38.8(b)(2), (3).

The supplemental clerk's and reporter's records required by the rule, if any, are ordered to be filed within 35 days of the date of this Order. *See id.*

PER CURIAM

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Appeal abated
Order issued and filed February 7, 2013
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