

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-04-00598-CV

In the Matter of J. A. M.

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 98TH JUDICIAL DISTRICT
NO. J-22,866, HONORABLE W. JEANNE MEURER, JUDGE PRESIDING**

MEMORANDUM OPINION

In April 2004, J. A. M. filed his notice of appeal from the trial court's February 2004 order adjudicating him delinquent and placing him on probation. In May, appellant's trial counsel withdrew from the case and a new attorney was appointed to represent him. The clerk's record was filed in September and the reporter's record was filed in December. In January 2005, this Court notified appellant that his brief was overdue. In February, appellate counsel responded that appellant had absconded after being placed on probation and that, after a hearing, the trial court "ruled that due to [appellant's] absconder status, he was not entitled to a court appointed attorney." Counsel said that at the hearing, she "was withdrawn from the case." Appellate counsel also stated that she had not heard from appellant or his family since. In March, a trial court clerk informed this Court that appellant had been rearrested for probation violations in mid-February and that a hearing was set for March 23. In May, this Court again contacted appellate counsel, asking if appellant intended to pursue the appeal. Counsel responded, informing this Court that appellant had an upcoming court

date in late June and was being represented by the Juvenile Public Defender's Office. Counsel suggested that dismissal of this appeal might be appropriate.

It appears that the order from which this notice of appeal was filed is a final and appealable order. However, it is unclear whether appellant wishes to continue this appeal, whether he understands that an appeal from the February 2004 appeal is pending, and whether he is still represented by counsel in this appeal or only in the proceeding ongoing in the trial court. On our own motion, we abate this appeal and remand it to the trial court for a status report as to whether appellant wishes to pursue this appeal and, if so, whether counsel has been or should be appointed to pursue this appeal. The trial court is requested to respond to this Court by August 26, 2005.

David Puryear, Justice

Before Chief Justice Law, Justices B. A. Smith and Puryear

Filed: July 26, 2005