

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-05-00369-CR

Gary Hayden Gibbs, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 368TH JUDICIAL DISTRICT
NO. 04-159-K368, HONORABLE BURT CARNES, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant's brief was originally due January 30, 2006. The time for filing was extended twice on counsel's motion. On June 2, 2006, in granting the second extension, this Court ordered appellant's attorney, Mr. John R. Duer, to file a brief on appellant's behalf no later than June 23, 2006. Counsel did not file a brief as ordered.

The appeal is abated. The district court is ordered to conduct a hearing to determine whether the attorney it appointed to represent appellant has abandoned the appeal. Tex. R. App. P. 38.8(b)(2). The court shall make appropriate findings and recommendations. If necessary, the court shall appoint substitute counsel who will effectively represent appellant. A record from this hearing, including copies of all findings and orders and a transcription of the court reporter's notes, shall be

forwarded to the Clerk for filing as a supplemental record no later than October 13, 2006. Rule 38.8(b)(3).

Bea Ann Smith, Justice

Before Justices B. A. Smith, Puryear and Waldrop

Filed: September 15, 2006

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