

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-09-00125-CR

Paul Stautzenberger, Appellant

v.

The State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 8 OF TRAVIS COUNTY
NO. C1-CR-05-708869, HONORABLE CARLOS HUMBERTO BARRERA, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

Based on his plea of nolo contendere, appellant was convicted of driving with a suspended license and sentenced to one day in jail. Appellant's brief was originally due on May 15, 2009. He requested and was granted an extension of time to file his brief to June 16, 2009. By letter dated August 3, 2009, this Court's clerk notified appellant that his brief was late and requested a response updating the status of this appeal by August 13, 2009. The brief has not been received and appellant, proceeding pro se on appeal as he did at trial, did not respond to this Court's notice that the brief is overdue based on the extended deadline.

The appeal is abated. Appellant may file a motion to dismiss if he no longer wishes to prosecute this appeal. Otherwise, the trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal and, if so, whether appellant desires the assistance of an

attorney and, if so, whether appellant is indigent. Tex. R. App. P. 38.8(b)(2). If appellant is entitled to but does not desire the assistance of an appointed attorney, he shall waive that right on the record. If appellant is entitled to and desires the assistance of an appointed attorney, the trial court shall make the appointment. The trial court shall make appropriate findings and recommendations. 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 of this Court for filing as a supplemental record no later than October 5, 2009. Tex. R. App. P. 38.8(b)(3). Any attorney appointed shall, on or before October 5, 2009, file in this Court a motion for extension of time to file a brief.

Before Chief Justice Jones, Justices Waldrop and Henson

Abated

Filed: August 28, 2009

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