

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-12-00320-CR**

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**Dennis Mitchell Alford, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT  
NO. CR2011-284, THE HONORABLE DIB WALDRIP, JUDGE PRESIDING**

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**ORDER**

**PER CURIAM**

Appellant's brief was originally due July 5, 2012. After appellant's court-appointed attorney, Joe Garcia, failed to respond to this Court's notice that the brief was overdue, we abated the appeal on September 20, 2012 with instructions to the trial court to hold a hearing to determine whether appellant desires to prosecute this appeal and, if so, whether appointed counsel has abandoned the appeal. *See* Tex. R. App. P. 38.8(b)(2) (providing that if counsel for criminal appellant fails to file brief, appellate court should order trial court to conduct hearing on whether appellant wishes to prosecute appeal, is indigent, or has abandoned appeal).

Following the hearing, the trial court forwarded its findings and recommendations to this Court, recommending that counsel be granted an extension until October 31, 2012 to file either a brief or motion to dismiss the appeal. This Court granted an extension and notified Garcia

that this Court expected appellant's brief or a motion to dismiss the appeal to be filed on or before November 9, 2012. No brief or motion to dismiss was filed. Further, Garcia has failed to respond to this Court's subsequent notice that the brief is overdue.

We therefore order Garcia to file appellant's brief or a motion to dismiss no later than January 11, 2013. Failure to do so by that date will result in counsel being called before this Court to show cause why he should not be held in contempt for violating this order, and the cause will be abated with instructions to the trial court to appoint substitute counsel to represent appellant on this appeal.

It is so ordered on this the 21st day of December, 2012.

Before Chief Justice Jones, Justices Rose and Goodwin