

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00582-CR

Candalario Cerda, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF CALDWELL COUNTY, 421ST JUDICIAL DISTRICT
NO. 2010-082, THE HONORABLE TODD A. BLOMERTH, JUDGE PRESIDING**

MEMORANDUM OPINION

This an appeal from two judgments of conviction for sexual assault of a child. Appellant's brief was originally due April 19, 2013. The time for filing the brief was extended three times on counsel's motion, making the brief due July 29, 2013. Counsel did not file the brief. Nor did appellant's court-appointed attorney, Edmund M. "Skip" Davis, respond to this Court's subsequent notice that the brief is overdue.

We therefore abate the appeal and remand the cause to the trial court to hold a hearing in accordance with Rule 38.8 of the Rules of Appellate Procedure. Tex. R. App. P. 38.8(b)(2), (3). The trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal and, if so, whether appointed counsel has abandoned the appeal. Tex. R. App. P. 38.8(b)(2). The court shall make appropriate findings and recommendations. If present counsel is not prepared to prosecute this appeal in a timely fashion, the court shall appoint substitute counsel who will

effectively represent appellant on appeal. Following the hearing, the trial court shall order the appropriate supplemental reporter's and clerk's records, including any order and findings, to be prepared and forwarded to this Court no later than October 23, 2013. Tex. R. App. P. 38.8(b)(3).

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Pemberton and Field

Abated

Filed: October 4, 2013

Do Not Publish