

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00509-CR

Terry Atkins, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 331ST JUDICIAL DISTRICT
NO. D-1-DC-11-302358, THE HONORABLE WILFORD FLOWERS, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant's brief was due March 21, 2014. The brief has not been received and appellant's attorney, Amber Vasquez Bode, did not respond to this Court's notice that the brief is overdue.

The appeal is abated and remanded to the trial court. The trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal, whether appellant is indigent, and, if he is not indigent, whether counsel has abandoned this appeal.¹ *See* Tex. R. App. P. 38.8(b)(2), (3). The court shall make appropriate written findings and recommendations. *See*

¹ The clerk's record reflects that appellant was twice before found to be indigent and appointed counsel to represent him—at the original plea proceeding and again for the adjudication proceeding—before current counsel substituted in to represent appellant in the adjudication proceeding. It is unclear from the record whether current counsel was appointed or retained.

Tex. R. App. P. 38.8(b)(2), (3). Following the hearing, which shall be transcribed, the trial court shall order the appropriate supplemental clerk's and reporter's records—including all findings and orders—to be prepared and forwarded to this Court no later than June 5, 2014. *See* Tex. R. App. P. 38.8(b)(3).

It is so ordered on this the 6th day of May, 2014.

Before Chief Justice Jones, Justices Pemberton and Rose

Abated and Remanded

Filed: May 6, 2014

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