

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-13-00852-CR

Gregory Lopez, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT
NO. CR2012-396, HONORABLE GARY L. STEEL, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

On September 19, 2014, this Court granted appellant's second motion for extension of time to file appellant's brief and ordered that appellant's brief be filed no later than November 17, 2014. In this Court's order, we notified appellant's appointed counsel that a failure to comply with the order would result in the referral of this case to the trial court for a hearing under Rule 38.8(b) of the Texas Rules of Appellate Procedure. To date, the brief has not been filed.

We therefore abate the cause and remand it to the trial court to hold a hearing in accordance with Rule 38.8. *See* Tex. R. App. P. 38.8(b)(2), (3). The trial court shall conduct a hearing to determine whether appellant still wishes to prosecute this appeal and, if so, whether appointed counsel has abandoned the appeal. *See id.* The trial court shall make appropriate findings and recommendations. If appellant desires to appeal and 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. *See id.* 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 the Clerk of this Court no later than December 19, 2014. *See id.*

It is so ordered this 4th day of December 2014.

Before Justices Puryear, Pemberton, and Field

Abated and Remanded

Filed: December 4, 2014

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