

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

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**NO. 03-16-00011-CR**

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**Vernard Brown, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT  
NO. D-1-DC-15-904067, HONORABLE DAVID CRAIN, JUDGE PRESIDING**

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**ORDER AND MEMORANDUM OPINION**

**PER CURIAM**

Appellant's brief was originally due May 26, 2016. On counsel's motions, the time for filing was extended to August 22. On August 26, in response to appellant's third motion for extension of time, the Court ordered appellant's counsel, Mr. Ariel Payan, to file a brief on appellant's behalf no later than October 10 and warned that no further extension would be granted and that failure to file a brief by that date would result in the referral of the cause to the trial court for a hearing pursuant to Texas Rule of Appellate Procedure 38.8(b). On October 4, Mr. Payan requested a supplement to the appellate record, and on October 19, a supplemental reporter's record was filed with the Court. On October 24, Mr. Payan filed a fourth motion for extension of time, requesting a new deadline of October 31. To date, he has not filed a brief.

The appeal is abated. The trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal and if so, whether counsel has abandoned the appeal. *See* Tex. R. App. P. 38.8(b)(2). The court shall make appropriate findings and recommendations. If necessary, the court shall appoint substitute counsel who will effectively represent appellant in this cause. 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 December 5, 2016.

It is ordered November 4, 2016.

Before Justices Puryear, Pemberton, and Field

Abated and Remanded

Filed: November 4, 2016

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