

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00606-CR

Allan Wayne Hawley, Appellant

v.

The State of Texas, Appellee

**FROM THE 33RD DISTRICT COURT OF BURNET COUNTY
NO. 49459, THE HONORABLE J. ALLAN GARRETT, JUDGE PRESIDING**

MEMORANDUM OPINION

A jury convicted appellant Allan Wayne Hawley of evading arrest or detention with a vehicle, *see* Tex. Penal Code § 38.04(a), (b)(2)(A), and assessed his punishment, enhanced pursuant to the habitual offender provision of the Penal Code, at confinement for fifty-five years in the Texas Department of Criminal Justice, *see id.* § 12.42(d). Appellant filed a pro se notice of appeal.¹

Appellant’s brief was originally due on October 16, 2020, but no brief was filed. This Court’s clerk sent a notice to appellant informing appellant that his brief was overdue and advising him that if the Court did not receive a motion for extension of time or a brief

¹ The trial court appointed counsel to represent appellant in the proceedings below, but appellant chose to represent himself at trial, *see Faretta v. California*, 422 U.S. 806, 835–36 (1975) (recognizing that criminal defendant has constitutional right to represent himself but holding that record must reflect knowing and intelligent election to proceed without counsel after being made aware of “the dangers and disadvantages of self-representation”). Appellant did not request appointed counsel for appeal.

accompanied by a motion for extension of time on or before November 13, 2020, the cause would be submitted for consideration on the record alone. Appellant did not respond to the notice, file a motion for extension, or file a brief.

Rule 38.8 of the Texas Rules of Appellate Procedure provides that under appropriate circumstances, “the appellate court may consider the appeal without briefs, as justice may require.” Tex. R. App. P. 38.8(b)(4); *see Lott v. State*, 874 S.W.2d 687, 688 (Tex. Crim. App. 1994) (affirming conviction on record alone where appellant failed to file pro se brief after being properly admonished). Appellant has chosen not to file a brief on his behalf in this appeal. We therefore submitted the cause without the benefit of briefs and, in the interest of justice, reviewed the entire record brought forth in this appeal. We find no reversible error. Accordingly, the trial court’s judgment of conviction is affirmed.

Edward Smith, Justice

Before Chief Justice Byrne, Justices Baker and Smith

Affirmed

Filed: April 23, 2021

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