

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-21-00369-CV

In the Matter of B. D. P.

**FROM THE 391ST DISTRICT COURT OF TOM GREEN COUNTY
NO. D-19-0013-J, THE HONORABLE BRAD GOODWIN, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant is a juvenile, represented by appointed counsel, who seeks to appeal an order modifying his disposition and committing him to the Institutional Division of the Texas Juvenile Justice Department. Appellant filed his notice of appeal on August 3, 2021, and his brief was due on October 15, 2021. On November 9, 2021, this Court sent a notice to appellant informing him that his brief was overdue and that he should file a motion for extension of time or a brief accompanied by a motion for extension of time before November 19, 2021. To date, appellant has not filed a motion for extension of time or brief or otherwise responded to our notice.

Accordingly, we abate the appeal and remand the cause to the trial court. *See* Tex. R. App. P. 38.8(a)(2) (when appellant’s brief is late in civil case, appellate court may “decline to dismiss the appeal and give further direction to the case as it considers proper”); *In re L.L.M.*, No. 03-11-00127-CV, 2011 Tex. App. LEXIS 9004, at *1-2 (Tex. App.—Austin Nov. 9,

2011, no pet.)) (mem. op.) (per curiam) (abating appeal from order adjudicating juvenile delinquent); *In re M.A.D.*, 167 S.W.3d 938, 939 (Tex. App.—Waco 2005, order) (same). Upon remand, the trial court shall conduct a hearing to determine whether appellant wishes to prosecute his appeal and, if so, whether counsel has abandoned this appeal. *See* Tex. R. App. P. 38.8(b)(2). The trial court shall make appropriate written findings and recommendations. *See id.* If necessary, the trial court shall appoint substitute counsel who will effectively represent appellant in this appeal. *See id.*; *In re M.R.*, No. 03-02-00190-CR, 2003 Tex. App. LEXIS 1748, at *7 (Tex. App.—Austin Feb. 27, 2003, no pet.) (mem. op.) (“Because of the criminal nature of delinquency adjudications, juveniles are entitled to the same reasonably effective counsel that they would have as adults in a criminal proceeding.” (citing *In re K.J.O.*, 27 S.W.3d 340, 342 (Tex. App.—Dallas 2000, pet. denied)). 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 January 18, 2022. *See* Tex. R. App. P. 38.8(b)(3).

It is ordered on December 15, 2021.

Before Chief Justice Byrne, Justices Triana and Kelly

Abated and Remanded

Filed: December 15, 2021