NO. 07-07-0436-CR

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL D

DECEMBER 6, 2007

ROBERT JAMES BACK,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 320TH DISTRICT COURT OF POTTER COUNTY;

NO. 54960-D; HON. DON EMERSON, PRESIDING

Abatement and Remand

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Robert James Back (appellant) filed a notice of appeal from his conviction for robbery on October 22, 2007. On October 31, 2007, the trial court filed its certification representing that appellant has the right of appeal. However, the appellate record reflects

that appellant failed to sign the certification pursuant to Texas Rule of Appellate Procedure 25.2(d) which requires the certification to be signed by appellant and a copy served on him.[1]

Consequently, we abate the appeal and remand the cause to the 320th District Court of Potter County (trial court) for further proceedings. Upon remand, the trial court shall immediately cause notice of a hearing to be given and, thereafter, conduct a hearing to determine the following:

1. whether appellant desires to prosecute the appeal; and

2. if appellant desires to prosecute the appeal, to obtain his signature on an amended trial court's certification.

We further direct the trial court to issue findings of fact and conclusions of law addressing the foregoing subjects. Furthermore, the trial court shall also cause to be developed 1) a supplemental clerk's record containing the amended trial court certification, if any, and 2) a reporter's record transcribing the evidence and argument presented at the aforementioned hearing. Additionally, the trial court shall cause the supplemental clerk's record to be filed with the clerk of this court on or before January 3, 2008. Should additional time be needed to perform these tasks, the trial court may request same on or before January 3, 2008.

It is so ordered.

Per Curiam

Do not publish.

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[1]Became effective September 1, 2007.