Motion Granted; Abatement Order filed September 29, 2011.

In The

Fourteenth Court of Appeals

NO. 14-10-01210-CR

RAYMOND MITCHELL, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 351st District Court
Harris County, Texas
Trial Court Cause No. 1181757

A B A T E M E N T O R D E R

Appellant was convicted of burglary of a habitation. On December 7, 2010, the trial court sentenced appellant to confinement for twenty-five years in the Institutional Division of the Texas Department of Criminal Justice. Appellant filed a timely notice of appeal. On June 13, 2011, appellant's appointed counsel, Brian Middleton, filed a brief in which he concludes that the appeal is wholly frivolous and without merit, pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967). A copy of counsel's brief was delivered to appellant. Appellant was advised of the right to examine the appellate record

and file a pro se response. *See Stafford v. State*, 813 S.W.2d 503, 510 (Tex. Crim. App. 1991). As of this date, no pro se response has been filed.

We disagree with appellate counsel's conclusion that there are no arguable issues for appeal. Specifically, counsel's brief does not address sufficiently the issue of appellant's competency for trial.

Accordingly, we grant counsel's motion to withdraw from his representation of appellant in this appeal, and we enter the following order:

We order the appeal **ABATED** and remand the case to the trial court with instructions to appoint new counsel to file a new brief on behalf of appellant. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex.Crim.App.2005). The trial court is directed to have a supplemental clerk's record containing an order appointing new counsel filed with the clerk of this court on or before **October 28, 2011**.

The appeal is abated, treated as a closed case, and removed from this court's active docket. The appeal will be reinstated on this court's active docket when the trial court's supplemental clerk's record is filed.

PER CURIAM

Panel consists of Justices Brown, Boyce, and McCally.