COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON

ORDER

Appellate case name: Daniel Wayne Curtis v. The State of Texas

Appellate case number: 01-15-01017-CR

Trial court case number: 1960764

Trial court: County Criminal Court at Law No. 11 of Harris County

Appellant, Daniel Wayne Curtis, has filed his notice of appeal of the trial court's judgment of conviction for the misdemeanor offense of driving while intoxicated. The clerk's record was filed in this Court on December 17, 2015. The reporter's record was due to be filed no later than November 30, 2015, but has not been filed.

On December 9, 2015, the Clerk of this Court notified appellant that the Court might consider the appeal without a reporter's record unless he provided proof that he had made arrangements to pay for the reporter's record or was entitled to proceed without payment of costs. Appellant responded, showing payment for the reporter's record on January 8, 2016.

On March 21, 2016, court reporter Elizabeth Cordova requested an extension of time to file the reporter's record to March 31, 2016. We granted the extension. On April 15, 2016, Cordova requested a second extension of time. We granted the requested extension to April 26, 2016, with no further extensions absent extraordinary circumstances. Cordova did not file the reporter's record or request another extension. On June 2, 2016, we ordered Cordova to file the reporter's record by July 5, 2016, and notified her that no extensions would be granted. We further notified her that if the reporter's record were not filed by July 5, 2016, the Court might abate the appeal and remand the case to the trial court to conduct a hearing to determine the reason for the failure to file the reporter's record. Nevertheless, on July 11, 2016, Cordova filed a request to extend the time to file the reporter's record to July 13, 2016. No reporter's record has been filed.

Accordingly, we abate the appeal and remand the case to the trial court to conduct a hearing at which Elizabeth Cordova, a representative of the Harris County District Attorney's Office, and appellant's counsel, Morgan Bourque, shall be present. The trial court is directed to:

(1) determine the reason for the failure to file a reporter's record in this appeal,

(2) establish a date when the reporter's record will be filed,

(3) enter written findings and conclusions of law regarding this issue, and

(4) make any other findings, recommendations, or orders that the trial court deems appropriate.

See TEX. R. APP. P. 13.1(d), 35.3(b), (c).

The trial court shall have a court reporter, or court recorder, record the hearing. The trial court clerk is directed to file a supplemental clerk's record containing the trial court's findings, recommendations, and orders with this Court within 30 days of the date of this order. The court reporter is directed to file the reporter's record of the hearing within 30 days of the date of this order.

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 records that comply with our order are filed with the Clerk of this Court. The court coordinator of the trial court shall set a hearing date and notify the parties.

If Elizabeth Cordova files the reporter's record before the date set for the trial court hearing, the appeal will be reinstated and the trial court need not hold a hearing.

It is so ORDERED.

Judge's signature: /s/ Russell Lloyd
☑ Acting individually ☐ Acting for the Court

Date: July 19, 2016