NUMBER 13-15-00507-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

DARRELL HARDAWAY, **Appellant,**

v.

THE STATE OF TEXAS, **Appellee.**

On Appeal from the 24th District Court
of Victoria County, Texas.

ORDER OF ABATEMENT

Before Chief Justice Valdez and Justices Garza and Longoria
Order Per Curiam

Appellant's brief was due on June 28, 2016. Pursuant to Texas Rule of Appellate Procedure 38.8(b)(2), on June 30, 2016, the Clerk of the Court notified appellant's counsel that the brief had not been timely filed, requested counsel to file a response concerning the failure to file the brief within ten days, and warned counsel that the Court

would abate and remand this cause to the trial court for appropriate findings if a response was not filed. Counsel has nevertheless failed to file either a response or an appellate brief in this matter.

Accordingly, we now ABATE this appeal and REMAND the cause to the trial court for further proceedings pursuant to Rule 38.8(b)(2) and (3) of the Texas Rules of Appellate Procedure. Upon remand, the trial court shall utilize whatever means necessary to make appropriate findings and recommendations concerning the following: (1) whether appellant desires to prosecute this appeal; (2) why appellant's counsel has failed to file a brief and whether counsel has effectively abandoned the appeal; (3) whether appellant has been denied effective assistance of counsel; (4) whether appellant's counsel should be removed; and (5) whether appellant is indigent and entitled to court-appointed counsel.

If the trial court determines that appellant does want to continue the appeal, that present counsel should be removed, and that appellant is indigent and entitled to court-appointed counsel, the trial court shall appoint new counsel to represent appellant in this appeal. If new counsel is appointed, the name, address, email address, telephone number, and state bar number of said counsel shall be included in an order appointing counsel.

The trial court shall cause its findings and recommendations, together with any orders it may enter regarding the aforementioned issues, to be included in a supplemental clerk's record. Furthermore, the trial court shall cause a supplemental reporter's record of any proceedings to be prepared. The supplemental clerk's record and supplemental

reporter's record, if any, shall be filed with the Clerk of this Court on or before the expiration of thirty days from the date of this order.

It is so ORDERED.

PER CURIAM

Do not publish.
TEX. R. APP. P. 47.2(b).

Delivered and filed this the
19th day of July, 2016.
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