Fourth Court of Appeals
San Antonio, Texas

January 31, 2018

No. 04-17-00824-CR

Ex parte Robert **MARTINEZ JR**.,
Appellant

From the County Court at Law No. 5, Bexar County, Texas
Trial Court No. 587693
Honorable John Longoria, Judge Presiding

O R D E R

Appellant's brief was due on January 30, 3018. Before the due date, Appellant filed a first motion for a twenty-day extension of time to file the brief. Appellant's motion for an extension of time to file his brief is GRANTED. Appellant's brief is due on February 12, 2018.

In the same motion, Appellant also asked this court for a free copy of the record. "Appellant is not entitled to a free record of the habeas proceeding." *See In re Camp*, No. 03-17-00028-CV, 2017 WL 1404749, at *1 (Tex. App.—Austin Apr. 14, 2017, no pet.). Appellant was "entitled to obtain a free record for purposes of direct appeal (i.e., his first appeal of right) but not for purposes of collateral attack, such as a writ of habeas corpus." *Id.*; *see In re Strickhausen*, 994 S.W.2d 936, 937 (Tex. App.—Houston [1st Dist.] 1999, no pet.); *In re Coronado*, 980 S.W.2d 691, 693 (Tex. App.—San Antonio 1998, orig. proceeding) (per curiam); *Escobar v. State*, 880 S.W.2d 782, 783 (Tex. App.—Houston [1st Dist.] 1993, no pet.).

The State is not obligated to provide a free record to an indigent inmate by either federal due process or equal protection. *See United States v. MacCollom*, 426 U.S. 317, 323–26 (1976); *In re Coronado*, 980 S.W.2d at 693; *Escobar*, 880 S.W.2d at 784.

Appellant's request for a free copy of the record is DENIED.

Patricia O. Alvarez, Justice

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 31st day of January, 2018.



Keith E. Hottle
Clerk of Court