

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

Darrel K. Bowser v. State

Bowser v. State · No. 04-16-00648-CR · Decided July 21, 2017

SUMMARY

The Fourth Court of Appeals of Texas reinstated Darrel K. Bowser’s criminal appeal after the trial court found that he was indigent, desired to prosecute the appeal, and had been abandoned by previously retained appellate counsel due to nonpayment. The court appointed Angela Moore as appellate counsel and ordered her to file the appellant’s brief by August 21, 2017.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Irene Rios, Justice
JURISDICTION	Texas
DECIDED	July 21, 2017
DOCKET	04-16-00648-CR
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order reinstating a criminal appeal after abatement for findings concerning the appellant's desire to prosecute, indigency, and possible abandonment by appointed appellate counsel.
PRECEDENTIAL VALUE	Published
PARTIES	Darrel K. Bowser v. The State of Texas

TOPICS

[appellate procedure](#) [criminal procedure](#) [right to counsel](#)

PRACTICE AREAS

[criminal appellate procedure](#) [right to counsel](#)

QUESTIONS PRESENTED

1. Whether the appeal should be reinstated after the trial court determined that the indigent appellant desired to prosecute the appeal and that prior counsel would no longer represent him.
2. Whether new appellate counsel should be appointed and directed to file the appellant's brief.

HOLDINGS

1. Because the trial court found that Bowser was indigent, desired to prosecute his appeal, and was no longer being represented by prior appellate counsel, the court reinstated the appeal on its docket.

KEY QUOTATIONS

“We, therefore, ORDER this appeal reinstated on the docket of this court.”

FACTUAL BACKGROUND

Bowser was found to be indigent and expressed a desire to continue prosecuting his appeal. His prior appellate counsel would no longer file an appeal because of Bowser's nonpayment, and the trial court appointed Angela Moore to represent him.

PROCEDURAL HISTORY

On June 15, 2017, the court abated the appeal and directed the trial court to conduct a hearing under Texas Rule of Appellate Procedure 38.8(b)(2). The trial court found that Bowser was indigent and wanted to prosecute the appeal, that prior counsel would no longer file an appeal because of nonpayment, and that new counsel should be appointed. After the supplemental clerk's record was filed on July 19, 2017, the appellate court reinstated the appeal and ordered Angela Moore to file the appellant's brief by August 21, 2017.

DISPOSITION

other

REMAND INSTRUCTIONS

The appeal was reinstated on the appellate docket, and Angela Moore was ordered to file the appellant's brief on or before August 21, 2017.

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas July 21, 2017 No. 04-16-00648-CR Darrel K. BOWSER, Appellant v. The STATE of Texas, Appellee From the 175th Judicial District Court, Bexar County, Texas Trial Court No. 2014CR5005 Honorable Mary D. Roman, Judge Presiding ORDER On June 15, 2017, we abated this appeal to the trial court to hold a hearing to determine whether appellant desired to prosecute his appeal, whether appellant is indigent, and whether counsel abandoned this appeal.

See TEX. R. APP. P. 38.8(b)(2). On July 19, 2017, a supplemental clerk's record containing the trial court's findings of facts and conclusions of law was filed. The trial court found appellant is indigent and desires to prosecute his appeal.

The trial court also found counsel “represented appellant on appeal, but will no longer file an appeal due to non-payment by appellant.” The trial court appointed Angela Moore to represent appellant on appeal. We, therefore, ORDER this appeal reinstated on the docket of this court.

We ORDER Angela Moore to file appellant=s brief on or before August 21, 2017.

Irene Rios, Justice IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 21st day of July, 2017.

Luz Estrada Chief Deputy Clerk