

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT

Tyric Hardy v. The State of Texas

No. 08-21-00076-CR · No. No. 08-21-00076-CR · Decided September 14, 2021

SUMMARY

The Eighth District Court of Appeals ordered the trial court to conduct a hearing regarding whether Appellant Tyric Hardy wished to continue his appeal and whether he had been deprived of effective assistance of counsel. The order was issued because Hardy's appellate brief was overdue and neither a brief nor an extension motion had been filed.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District
WRITING FOR THE COURT	Per Curiam; Rodriguez, C.J.; Palafox, J.; Alley, J.
JURISDICTION	Texas
DECIDED	September 14, 2021
DOCKET	No. 08-21-00076-CR
DISPOSITION	other
PROCEDURAL POSTURE	In a criminal appeal, the appellant's brief was overdue and no brief or extension motion had been filed. The appellate court ordered the trial court to conduct a hearing regarding whether the appellant wished to continue the appeal and whether he had been deprived of effective assistance of counsel.
PRECEDENTIAL VALUE	Published procedural order
PARTIES	Tyric Hardy v. The State of Texas

TOPICS

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

PRACTICE AREAS

[criminal appellate procedure](#)[criminal procedure](#)[effective assistance of counsel](#)

QUESTIONS PRESENTED

1. What action should the appellate court take when an appellant's brief is overdue and neither a brief nor a motion for extension has been filed?
2. Whether the trial court should determine if the appellant wishes to continue the appeal and whether he has been deprived of effective assistance of counsel.

HOLDINGS

1. When the appellant's brief is overdue and no brief or motion for extension has been filed, the appellate court may order the trial court to conduct a hearing concerning continuation of the appeal and possible ineffective assistance of counsel.

KEY QUOTATIONS

“It is therefore ORDERED that the trial court conduct a hearing to determine whether Appellant wishes to continue the appeal and if Appellant has been deprived of effective assistance of counsel.”

FACTUAL BACKGROUND

The appellant's brief was due on August 21, 2021. As of September 14, 2021, no brief or motion for extension had been filed. The appellate court therefore required a trial-court hearing to determine whether the appellant wished to continue the appeal and whether he had been deprived of effective assistance of counsel.

PROCEDURAL HISTORY

Hardy appealed from the 184th District Court of Harris County, Texas. After Hardy's brief became due on August 21, 2021, neither a brief nor a motion for extension was filed. The Court of Appeals directed the trial court to conduct a hearing and transmit its findings and the hearing record to the appellate court.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court was ordered to conduct a hearing to determine whether Hardy wished to continue the appeal and whether he had been deprived of effective assistance of counsel. The trial court was required to forward its findings to the District Clerk of Harris County by October 4, 2021. The District Clerk was ordered to prepare and forward a supplemental clerk's record containing the findings, and the hearing transcription was required to be prepared, certified, and filed with the Court of Appeals by October 14, 2021.

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS § No. 08-21-00076-CR TYRIC HARDY, § Appeal from the Appellant, § 184th District Court v. § of Harris County,

Texas THE STATE OF TEXAS, § (TC# 167070001010) State. § ORDER The Appellant's brief in the above styled and numbered cause was due August 21, 2021.

As of the date of this order, no brief or motion for extension of time to file the brief has been filed with this Court. It is therefore ORDERED that the trial court conduct a hearing to determine whether Appellant wishes to continue the appeal and if Appellant has been deprived of effective assistance of counsel. Further, the trial court shall forward its findings to the District Clerk of Harris County, Texas, on or before October 4, 2021.

The District Clerk shall prepare and forward a supplemental clerk's record containing the findings and forward the same to this Court on or before October 14, 2021. Further, the transcription of the hearing shall be prepared, certified, and filed with this Court on or before October 14, 2021. IT IS SO ORDERED this 14th day of September, 2021. PER CURIAM Before Rodriguez, C.J., Palafox and Alley, JJ.