

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Sergio Manuel Nava, Jr. v. State

Nava v. State · No. 05-14-00242-CR · Decided October 20, 2014

SUMMARY

The Fifth District Court of Appeals in Dallas denied the appellant's second motion to extend the time to file his brief. The court abated the appeal and ordered the trial court to conduct a hearing regarding prosecution of the appeal, indigency, and potential abandonment by retained counsel, with findings and recommendations due within thirty days.

OPINION

PER CURIAM.

Order entered October 20, 2014 In The Court of Appeals Fifth District of Texas at Dallas No. 05-14-00242-CR SERGIO MANUEL NAVA, JR., Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the County Court at Law Rockwall County, Texas Trial Court Cause No. CR12-1388 ORDER Appellant's October 16, 2014 second motion to extend the time to file appellant's brief is DENIED.

We ORDER the trial court to conduct a hearing to determine why appellant's brief has not been filed. In this regard, the trial court shall make appropriate findings and recommendations and determine whether appellant desires to prosecute the appeal, whether appellant is indigent, or if not indigent, whether retained counsel has abandoned the appeal. See TEX. R. APP.

P. 38.8(b). If the trial court cannot obtain appellant's presence at the hearing, the trial court shall conduct the hearing in appellant's absence. See *Meza v. State*, 742 S.W.2d 708 (Tex. App.—Corpus Christi 1987, no pet.) (per curiam). If appellant is indigent, the trial court is ORDERED to take such measures as may be necessary to assure effective representation, which may include appointment of new counsel.

We ORDER the trial court to transmit a record of the proceedings, which shall include written findings and recommendations, to this Court within THIRTY DAYS of the date of this order. This appeal is ABATED to allow the trial court to comply with the above order.

The appeal shall be reinstated thirty days from the date of this order or when the findings are received, whichever is earlier. /s/ LANA MYERS JUSTICE