

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Mark Skladany v. The State of Texas

No. 03-25-00475-CR · No. No. 03-25-00475-CR · Decided March 6, 2026

SUMMARY

The Texas Court of Appeals, Third District, abated and remanded the criminal appeal because appellant's brief had not been filed by the extended deadline. The trial court was ordered to conduct a hearing under Texas Rule of Appellate Procedure 38.8(b) to determine whether appellant wished to prosecute the appeal and whether counsel had abandoned it, and to make related findings and recommendations.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Per Curiam; Justice Triana; Justice Kelly; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, at Austin
DECIDED	March 6, 2026
DOCKET	No. 03-25-00475-CR
DISPOSITION	remanded
PROCEDURAL POSTURE	Appellant failed to file his appellate brief by the deadline after receiving multiple extensions. The court abated the appeal and remanded it to the trial court for a Rule 38.8(b) hearing.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Mark Skladany v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- right to counsel

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether the appeal should be abated and remanded for a hearing under Texas Rule of Appellate Procedure 38.8(b) after appellant failed to file his brief despite multiple extensions.

2. Whether the trial court must determine whether appellant wishes to prosecute the appeal and whether appointed counsel has abandoned the appeal.

HOLDINGS

1. When appellant's brief remains unfiled after the appellate court has granted extensions and warned of the consequences of noncompliance, the appeal should be abated and remanded to the trial court for the hearing and findings required by Texas Rule of Appellate Procedure 38.8(b).

KEY QUOTATIONS

“The appeal is abated and remanded to the trial court. The trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal and, if so, whether counsel has abandoned this appeal.”

(2)

FACTUAL BACKGROUND

Appellant's brief was originally due September 12, 2025. The appellate court granted multiple extensions, with the final deadline set for January 12, 2026, and expressly warned that failure to comply would result in referral to the trial court. Appellant's brief had not been filed as of the court's March 6, 2026 order.

PROCEDURAL HISTORY

The appeal was pending from the 424th District Court of Blanco County. After granting multiple extensions, the court ordered appellant's brief filed by January 12, 2026, warned that no further extensions would be granted, and advised that noncompliance would result in referral to the trial court. When the brief was not filed, the court abated and remanded the appeal for a hearing concerning appellant's desire to prosecute the appeal and possible abandonment by counsel.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must conduct a hearing to determine whether appellant desires to prosecute the appeal and, if so, whether counsel has abandoned the appeal. The trial court must make appropriate written findings and recommendations, appoint substitute counsel if necessary, transcribe the hearing, and order supplemental clerk's and reporter's records containing the findings and orders to be forwarded to the appellate court no later than April 6, 2026.

OPINION

Mark Skladany v. the State of Texas

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-25-00475-CR

Mark Skladany, Appellant v. The State of Texas, Appellee

FROM THE 424TH DISTRICT COURT OF BLANCO COUNTY

NO. CR02153, THE HONORABLE EVAN C. STUBBS, JUDGE PRESIDING

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant's brief was originally due September 12, 2025. After this Court granted multiple motions requesting an extension of time to file his brief, appellant's brief was due January 12, 2026. In granting the most recent extension, this Court ordered counsel to file appellant's brief by that date and informed him that no further extensions would be granted and that failure to comply with the order would result in the referral of this case to the trial court for a hearing under Rule 38.8(b) of the Texas Rules of Appellate Procedure. To date, the brief has not been filed. The appeal is abated and remanded to the trial court. The trial court shall conduct a hearing to determine whether appellant desires to prosecute this appeal and, if so, whether counsel has abandoned this appeal. See Tex. R. App. P. 38.8(b)(2), (3). The court shall make appropriate written findings and recommendations. See *id.* R. 38.8(b)(2), (3). If necessary, the court shall appoint substitute counsel who will effectively represent appellant in this appeal. Following the hearing, which shall be transcribed, the trial court shall order the appropriate supplemental clerk's and reporter's records—including all findings and orders—to be prepared and forwarded to this Court no later than April 6, 2026. See *id.* R. 38.8(b)(3). It is so ordered March 6, 2026. Before Justices Triana, Kelly, and Ellis

Abated and Remanded Filed: March 6, 2026 Do Not Publish 2