

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Michael Ardis v. the State of Texas

Ardis v. State · No. 05-21-00875-CR · Decided March 14, 2022

SUMMARY

The Fifth District Court of Appeals at Dallas ordered the trial court to conduct a hearing concerning the appellant's failure to file an appellate brief. The appeal was abated pending findings and recommendations regarding whether the appellant wished to prosecute the appeal or whether counsel had abandoned it, with measures for effective representation if necessary.

OPINION

PER CURIAM.

Order entered March 14, 2022 In The Court of Appeals Fifth District of Texas at Dallas No. 05-21-00875-CR MICHAEL ARDIS, Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 265th Judicial District Court Dallas County, Texas Trial Court Cause No. F21-10832-R ORDER When appellant's brief, originally due on December 23, 2021, was not filed, we notified him by postcard and directed him to file his brief within ten days.

On January 11, 2022, appellant filed an extension motion which we granted making his brief due on February 25, 2022. To date, no brief has been filed and we have had no communication from appellant regarding this appeal.

We ORDER the trial court to conduct a hearing to determine why appellant's brief has not been filed. The trial court shall make appropriate findings and recommendations and determine whether appellant desires to prosecute this appeal, whether appellant has abandoned the appeal, or whether appointed 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 TWENTY DAYS of the date of this order. We DIRECT the Clerk to send copies of this order to the Honorable Jennifer Bennett, Presiding Judge, 265th Judicial District Court; to Lamonica Littles, court coordinator, 265th Judicial District Court; to Christina O'Neil, Chief Judicial Staff Counsel; and to counsel for all parties.

This appeal is ABATED to allow the trial court to comply with the above order. The appeal shall be reinstated twenty days from the date of this order or when the Court finds it appropriate to do so. /s/ ERIN A. NOWELL JUSTICE

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