

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

James Edward Rogers, Jr. v. State

No. 05-14-00695-CR (Tex. App.—Dallas Feb. 19, 2015) · No. 05-14-00695-CR · Decided February 23, 2015

SUMMARY

The Court of Appeals for the Fifth District of Texas denied the appellant's third motion to extend the deadline for filing his brief. The court abated the appeal and ordered the trial court to conduct a hearing regarding prosecution of the appeal, indigency, and representation, and to transmit findings and recommendations within thirty days.

OPINION

PER CURIAM.

Order entered February 19, 2015 In The Court of Appeals Fifth District of Texas at Dallas No. 05-14-00695-CR JAMES EDWARD ROGERS, JR., Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 196th Judicial District Court Hunt County, Texas Trial Court Cause No. 28576 ORDER The Court DENIES appellant's third motion to extend time to file his brief.

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