

TEXAS COURT OF APPEALS, THIRD DISTRICT AT AUSTIN

Victoria Curl v. The State of Texas

No. 03-26-00248-CR · No. 03-26-00248-CR · Decided June 26, 2026

SUMMARY

The Texas Court of Appeals for the Third District abated and remanded the criminal appeal after appellant’s brief was not filed and counsel did not respond to the court’s overdue-brief notice. The trial court was directed to determine whether appellant wished to prosecute the appeal, whether counsel had abandoned it, and whether substitute counsel was necessary, and to prepare supplemental records.

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	June 26, 2026
DOCKET	03-26-00248-CR
DISPOSITION	remanded
PROCEDURAL POSTURE	Appellant's brief was overdue, and after notice the appellant's attorney did not respond. The court abated the appeal and remanded it to the trial court for a hearing under Texas Rule of Appellate Procedure 38.8(b).
PRECEDENTIAL VALUE	Unpublished and designated Do Not Publish; nonprecedential.
PARTIES	Victoria Curl v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure

PRACTICE AREAS

- appellate procedure
- criminal procedure

QUESTIONS PRESENTED

- Whether the appeal should be abated and remanded for a hearing to determine whether appellant desires to prosecute the appeal and whether counsel has abandoned the appeal when appellant's brief is overdue

and counsel has not responded to notice.

HOLDINGS

1. When an appellant's brief is overdue and counsel fails to provide a satisfactory response after notice, the appellate court may abate the appeal and remand it to the trial court for a hearing to determine whether the appellant wishes to prosecute the appeal and whether counsel has abandoned it.

KEY QUOTATIONS

“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.” (at 1)

FACTUAL BACKGROUND

Appellant's brief was originally due on April 20, 2026. On June 9, 2026, the appellate court notified appellant's attorney that the brief was overdue and that failure to provide a satisfactory response by June 19, 2026, could result in referral to the trial court; no response was received.

PROCEDURAL HISTORY

The appeal arose from the 27th District Court of Bell County, cause number 24DCR89167. After appellant's brief became overdue and appellant's attorney failed to respond to the court's notice, the court referred the matter to the trial court for a Rule 38.8(b) hearing concerning appellant's desire to prosecute the appeal and possible abandonment by counsel.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court shall conduct a hearing to determine whether appellant desires to prosecute the appeal and, if so, whether counsel has abandoned the appeal; make appropriate written findings and recommendations; appoint substitute counsel if necessary; transcribe the hearing; and order supplemental clerk's and reporter's records, including all findings and orders, to be prepared and forwarded to the appellate court no later than July 10, 2026.

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-26-00248-CR Victoria Curl, Appellant v. The State of Texas, Appellee FROM THE 27TH DISTRICT COURT OF BELL COUNTY NO. 24DCR89167, THE HONORABLE DEBBIE GARRETT, JUDGE PRESIDING ORDER AND MEMORANDUM OPINION PER CURIAM Appellant's brief was originally due April 20, 2026.

On June 9, 2026, this Court sent a notice to appellant's attorney informing him that appellant's brief was overdue and that a failure to file a satisfactory response by June 19, 2026, 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, no response has been received. 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 July 10, 2026.

See id. R. 38.8(b)(3). It is so ordered June 26, 2026. Before Justices Triana, Kelly, and Ellis
Abated and Remanded Filed: June 26, 2026 Do Not Publish 2