

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Gabrielle Regina Jackson v. State

Jackson v. State · No. Nos. 05-15-00928-CR, 05-15-00929-CR, 05-15-00930-CR, 05-15-00931-CR, 05-15-00932-CR, 05-15-00933-CR, 05-15-00934-CR, 05-15-00935-CR · Decided December 18, 2015

SUMMARY

The Texas Court of Appeals for the Fifth District ordered the trial court to conduct a hearing concerning the absence of the appellant’s brief in eight consolidated criminal appeals. The appeals were abated for thirty days or until the trial court transmitted findings and recommendations regarding the appellant’s desire to pursue the appeals, indigency, and possible counsel abandonment.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Lana Myers
JURISDICTION	Texas
DECIDED	December 18, 2015
DOCKET	Nos. 05-15-00928-CR, 05-15-00929-CR, 05-15-00930-CR, 05-15-00931-CR, 05-15-00932-CR, 05-15-00933-CR, 05-15-00934-CR, 05-15-00935-CR
DISPOSITION	remanded
PROCEDURAL POSTURE	Interlocutory appellate order abating eight criminal appeals because appellant's brief had not been filed.
PRECEDENTIAL VALUE	Published order; no reporter citation appears in the source text.
PARTIES	Gabrielle Regina Jackson v. The State of Texas

TOPICS

- appellate procedure
- right to counsel
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- right to counsel
- criminal procedure

QUESTIONS PRESENTED

1. What procedure should be followed when an appellant's brief has not been filed and the appellate court must determine whether the appellant wishes to prosecute the appeal and whether counsel has abandoned the representation?
2. What measures are required if the appellant is indigent, including whether new counsel should be appointed?

HOLDINGS

1. The trial court must conduct a hearing and make findings and recommendations regarding why appellant's brief has not been filed, whether appellant desires to prosecute the appeals, whether appellant is indigent, and, if not indigent, whether retained counsel has abandoned the appeals.
2. If appellant is indigent, the trial court must take measures necessary to assure effective representation, which may include appointing new counsel.

FACTUAL BACKGROUND

Appellant's briefs had not been filed in eight criminal appeals. The appellate court directed the trial court to determine why the briefs were missing, whether appellant wished to prosecute the appeals, whether she was indigent, and whether retained counsel had abandoned the appeals.

PROCEDURAL HISTORY

Jackson appealed from the 283rd Judicial District Court of Dallas County in eight criminal cases. Because appellant's brief had not been filed, the court ordered the trial court to conduct a hearing concerning the status of the appeals, appellant's indigency, and possible abandonment by retained counsel, and abated the appeals pending receipt of findings and recommendations.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court was ordered to conduct a hearing, make appropriate findings and recommendations, determine whether appellant wished to prosecute the appeals, determine whether appellant was indigent, and determine whether retained counsel had abandoned the appeals if appellant was not indigent. If appellant was indigent, the trial court was ordered to take measures necessary to assure effective representation, potentially including appointment of new counsel. If appellant could not be present, the hearing was to proceed in her absence. The trial court was ordered to transmit the record, including written findings and recommendations, within thirty days. The appeals were abated and scheduled for reinstatement thirty days after the order or upon receipt of the findings, whichever occurred first.

CASES CITED

- *Meza v. State*, 742 S.W.2d 708 (Tex. App.—Corpus Christi 1987, no pet.) (per curiam)

OPINION

PER CURIAM.

Order entered December 18, 2015 In The Court of Appeals Fifth District of Texas at Dallas No. 05-15-00928-CR No. 05-15-00929-CR No. 05-15-00930-CR No. 05-15-00931-CR No. 05-15-00932-CR No. 05-15-00933-CR No. 05-15-00934-CR No. 05-15-00935-CR GABRIELLE REGINA JACKSON, Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 283rd Judicial District Court Dallas County, Texas Trial Court Cause Nod.

F14-20157-T, F14-55131-T, F14-55132-T, F14-55133-T, F14-55134-T, F14-75828-T, F14-75829-T, F14-75830-T ORDER The Court ORDERS 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 appeals, whether appellant is indigent, or if not indigent, whether retained counsel has abandoned the appeals. 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. The appeals are ABATED to allow the trial court to comply with the above order.

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