

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Erick Kevin Beltran-Tovar v. the State of Texas

No. 07-26-00040-CR (Tex. App.—Amarillo Mar. 24, 2026) (per curiam) (order of abatement and remand) · No.
No. 07-26-00040-CR · Decided March 24, 2026

SUMMARY

The Seventh District Court of Appeals of Texas abated Erick Kevin Beltran-Tovar’s appeal from his judgment adjudicating him guilty of sexual assault of a child and sentencing him to twenty years’ confinement. The court remanded the case to the trial court to determine whether Beltran-Tovar wishes to pursue the appeal, the status and effectiveness of appointed counsel, and the filing date for an appellate brief.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Parker, C.J.; Doss, J.; Yarbrough, J.
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	March 24, 2026
DOCKET	No. 07-26-00040-CR
DISPOSITION	remanded
PROCEDURAL POSTURE	Appeal from a judgment adjudicating Appellant guilty of sexual assault of a child and sentencing him to twenty years' confinement. Because appointed appellate counsel failed to file a timely brief or communicate with the court, the court of appeals abated the appeal and remanded it to the trial court for findings and further proceedings.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Erick Kevin Beltran-Tovar v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- right to counsel
- ineffective assistance

PRACTICE AREAS

- criminal appellate procedure
- criminal defense
- effective assistance of counsel

QUESTIONS PRESENTED

1. Whether the appeal should be abated and remanded when appointed appellate counsel failed to file the appellant's brief and failed to communicate with the court.
2. What factual and procedural determinations the trial court must make on remand regarding Appellant's desire to continue the appeal, indigency, counsel abandonment, ineffective assistance, and possible appointment of new counsel.

HOLDINGS

1. When appointed appellate counsel fails to file the appellant's brief after notice and an opportunity to cure, the court of appeals may abate the appeal and remand the cause to the trial court for the proceedings required by Texas Rule of Appellate Procedure 38.8(b)(2) and (3).
2. On remand, the trial court must determine whether Appellant desires to prosecute the appeal, whether he is indigent, why the brief was not timely filed, whether counsel abandoned the appeal, whether Appellant was denied effective assistance of counsel, whether new counsel should be appointed, and when a brief may be filed if the appeal will continue.

FACTUAL BACKGROUND

The trial court adjudicated Erick Kevin Beltran-Tovar guilty of sexual assault of a child and sentenced him to twenty years' confinement. His appointed appellate counsel's brief was due February 27, 2026, but no brief was filed. After the court of appeals warned counsel that failure to file by March 16 would result in abatement and remand, counsel neither filed a brief nor communicated further with the court.

PROCEDURAL HISTORY

Appellant appealed from the 355th District Court of Hood County's judgment adjudicating him guilty of sexual assault of a child and imposing a twenty-year sentence. The appeal was originally filed in the Second Court of Appeals and transferred to the Seventh Court of Appeals pursuant to the Texas Supreme Court's docket-equalization authority. After appointed counsel failed to file a brief by the deadline and failed to respond to the appellate court's admonition, the court abated the appeal and remanded the matter for a trial-court inquiry concerning Appellant's desire to pursue the appeal, indigency, counsel abandonment, ineffective assistance, and possible appointment of new counsel.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must determine: (1) whether Appellant still desires to prosecute the appeal; (2) whether Appellant is indigent; (3) if not indigent, whether he has arranged for filing a brief; (4) why a timely brief was not filed; (5) whether counsel abandoned the appeal; (6) whether Appellant was denied effective assistance of counsel; (7) whether new counsel should be appointed; and (8) if Appellant wishes to continue, when the brief may be

expected. The trial court must enter necessary orders, include its findings in a supplemental record, and file that record with the court of appeals by April 23, 2026. If Appellant wishes to proceed, is indigent, and was denied effective assistance, the trial court may appoint new counsel and must include the new counsel's identifying and contact information in the findings. If counsel files a brief before the trial court acts, counsel must immediately notify the trial court in writing, and no further trial-court action will be required.

OPINION

PER CURIAM.

In The Court of Appeals Seventh District of Texas at Amarillo No. 07-26-00040-CR ERICK KEVIN BELTRAN-TOVAR, APPELLANT V. THE STATE OF TEXAS, APPELLEE On Appeal from the 355th District Court Hood County, Texas Trial Court No. CR14462, Honorable Bryan T. Bufkin, Presiding March 24, 2026 ORDER OF ABATEMENT AND REMAND Before PARKER, C.J., and DOSS and YARBROUGH, JJ. Appellant, Erick Kevin Beltran-Tovar, appeals from the trial court's judgment adjudicating him guilty of sexual assault of a child¹ and sentencing him to twenty years of confinement.² Appellant's brief was due February 27, 2026, but was not filed.

By letter of March 6, 2026, we admonished Appellant's appointed counsel that failure to file a brief ¹ See TEX. PENAL CODE § 22.011. ² Originally appealed to the Second Court of Appeals, this appeal was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. See TEX. GOV'T CODE § 73.001. by March 16, 2026, would result in the appeal being abated and the cause remanded to the trial court for further proceedings without further notice.

To date, Appellant's counsel has neither filed a brief nor had any further communication with this Court. Accordingly, we abate the appeal and remand the cause to the trial court for further proceedings. See TEX. R. APP. P. 38.8(b)(2), (3). Upon remand, the trial court shall determine the following: 1. whether Appellant still desires to prosecute the appeal; 2. whether Appellant is indigent; 3. if Appellant is not indigent, whether Appellant has made the necessary arrangements for filing a brief; 4. why a timely appellate brief has not been filed on behalf of Appellant; 5. whether Appellant's counsel has abandoned the appeal; 6. whether Appellant has been denied the effective assistance of counsel; 7. whether new counsel should be appointed; and 8. if Appellant desires to continue the appeal, the date the Court may expect Appellant's brief to be filed.

The trial court is also directed to enter such orders necessary to address the aforementioned questions. So too shall it include its findings on those matters in a supplemental record and cause that record to be filed with this Court by April 23, 2026. If it is determined that Appellant desires to proceed with the appeal, is indigent, and has been denied the effective assistance of counsel, the trial court may appoint new counsel; the name, address, email address, phone number, and state bar number of any newly appointed counsel shall be included in the aforementioned findings.

2 Should Appellant's counsel file a brief on or before the date the trial court acts per our directive, he shall immediately notify the trial court of the filing, in writing, whereupon the trial court shall not be required to take any further action. It is so ordered. Per Curiam Do not publish. 3

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/court-of-appeals-for-the-seventh-district-of-texas-at-amarillo-court-of-appeals-for-the-seventh-dist/2026/erick-kevin-beltran-tovar-v-the-state-of-texas-ru7xd1c0>