

Juvenile Law Case Summaries

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Abatement of appeal to determine why no brief was filed results in dismissal [In re R.H.] (01-3-15).

On July 12, 2001, the Houston First District Court of Appeals dismissed a juvenile's appeal because at the juvenile court's hearing on abatement to determine why no brief had been filed, the juvenile, his attorney and parent wished the appeal to be dismissed.

¶ 01-3-15. In the Matter of R.H., UNPUBLISHED, No. 01-00-00807-CV, 2001 WL 778378, 2001 Tex.App.Lexis ____ (Tex.App.—Houston [1st Dist.] 7/12/01) [Texas Juvenile Law (5th Edition 2000)].

This is an appeal under the Juvenile Justice Code. Although the record had been on file since October 12, 2000, no brief had been filed. On April 12, 2001, we abated the appeal and remanded the case to the trial court to make appropriate findings and rulings on the following issues:

- (1) whether appellant still wished to prosecute the appeal;
- (2) if he did, whether appellant was still indigent;
- (3) if the trial court found appellant to be indigent, we directed the trial court to relieve present counsel of his duties in this case and appoint substitute counsel; and
- (4) if the trial court found appellant not to be indigent, we directed the trial court to determine whether appellant had made the necessary arrangements for filing a brief, i.e., whether appellant has paid an attorney to file a brief and, if so, the name, address, and telephone number of retained counsel. See Tex.R.App. P. 38.8(b)(4).

The trial court held a hearing on May 30, 2001 in response to this Court's order of abatement. On June 11, 2001, the trial court transmitted its findings to this Court. Those findings, which have been approved by appellant, his mother, and his appointed counsel, state that appellant and his mother declared their intention not to continue the appeal.

Therefore, concluding that such findings constitute the functional equivalent of an appellant's motion to dismiss, see Tex.R.App. P. 42.1(a)(2), in accordance with those findings, this Court dismisses the appeal.

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