

Affirmed and Opinion filed March 15, 2001.

In The
Fourteenth Court of Appeals

NO. 14-00-01018-CR

HERMAN FISHER, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Criminal Court at Law No. 7
Harris County, Texas
Trial Court Cause No. 1000210**

MEMORANDUM OPINION

After a jury trial, appellant was convicted of the offense of assault, and sentenced to one year in a state jail facility on June 28, 2000.

On January 4, 2001, this court ordered a hearing to determine why appellant's counsel had not filed a brief in this appeal. The trial court's findings as a result of these hearings were filed in this court on March 7, 2001.

The court convened the ordered hearing on January 14, 2001. Appellant's attorney appeared and announced that appellant was in federal custody in another city. Appellant's

informed the court that he had communicated with appellant, who informed counsel that appellant no longer wished to pursue his appeal. Appellant's counsel was instructed to send a motion to dismiss to appellant for his signature. The hearing was reconvened on February 16, 2001, and counsel informed the court that he had sent the motion to dismiss to appellant on January 14, 2001, but had received no response. The court again reset the case for March 5, 2001. Appellant's counsel again stated he had not received a response from appellant. The trial court then concluded that appellant had abandoned his appeal, and filed formal findings of fact and conclusions of law to that effect.

On the basis of the trial court's finding and conclusions, this court has considered the appeal without briefs. *See* TEX. R. APP. P. 38.8(b). We find no fundamental error.

Accordingly, the judgment of the trial court is affirmed.

PER CURIAM

Judgment rendered and Opinion filed March 15, 2001.

Panel consists of Senior Chief Justice Murphy, Justices Edelman and Frost.¹

Do not publish - TEX. R. APP. P. 47.3(b).

¹ Senior Chief Justice Paul C. Murphy sitting by assignment.