

Affirmed and Opinion filed October 28, 1999.



In The

Fourteenth Court of Appeals

NO. 14-97-00658-CR

JOHN ALBERT COOK, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Court at Law No. 2
Fort Bend County, Texas
Trial Court Cause No. 70,505**

O P I N I O N

Appellant was convicted of the offense of theft, and on May 29, 1997, appellant was sentenced to 180 days confinement in the Fort Bend County jail, with three days credit for time served.

On September 23, 1999, this court ordered a hearing to determine why appellant's counsel had not requested the reporter's record be prepared, had not made arrangements for payment for its preparation, and had not filed a brief in this appeal. On October 15, 1999, the trial court conducted the hearing. The record of the hearing was filed in this court on October 18, 1999.

Appellant, his counsel, and counsel for the State were present at the hearing. Appellant testified he did not wish to continue his appeal. He further stated he did not want new counsel appointed and did not want to be provided a free record. The State acknowledged that appellant had served his sentence and the State had no objection to appellant withdrawing his appeal. Based upon the testimony at the hearing, the trial court found appellant no longer desires to prosecute his appeal.

On the basis of those findings, this court has considered the appeal without briefs. *See* TEX. R. APP. P. 38.8(b). The case is before us without a reporter's record. We find no fundamental error.

Accordingly, the judgment of the trial court is affirmed.

PER CURIAM

Judgment rendered and Opinion filed October 28, 1999.

Panel consists of Justices Chief Justice Murphy, Justices Anderson and Hudson.

Do not publish - TEX.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