

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00150-CR

SHELBY PAUL SIMMONS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Court
Hardin County, Texas
Trial Cause No. 57187**

MEMORANDUM OPINION

We withdraw our Order of October 20, 2011, which abated the appeal and remanded the case to the trial court. We reinstate the appeal.

Shelby Paul Simmons appealed his conviction in Trial Cause No. 57187. The court reporter certified that the recording of the jury voir dire could not be accurately transcribed due to the poor quality of the recording. We remanded the case to the trial court for a determination of whether the recording of the jury voir dire is inaudible, and if so, whether the record may be accurately transcribed using amplification and noise

filtering software. The parties subsequently filed an agreed motion to remand the case for a new trial. Accordingly, we grant the motion, reverse the trial court's judgment without reference to the merits, and remand the case to the trial court for a new trial. *See* Tex. R. App. P. 43.2(d).

REVERSED AND REMANDED.

DAVID GAULTNEY
Justice

Opinion Delivered December 21, 2011
Do Not Publish

Before McKeithen, C.J., Gaultney and Horton, JJ.