

NO. 07-12-0068-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL A  
JANUARY 29, 2013

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THE STATE OF TEXAS, APPELLANT

v.

JENNIFER LUJAN, APPELLEE

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FROM THE COUNTY COURT OF TERRY COUNTY;  
NO. 28604; HONORABLE J. D. WAGNER, JUDGE

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Before CAMPBELL and HANCOCK and PIRTLE, JJ.

**DISSENTING OPINION**

In its entirety, the order being appealed states, “The First Amended Motion to Suppress Statements of the Defendant, Jennifer Lujan is hereby: Granted.” The trial court failed to file Findings of Fact and Conclusions of Law after receiving a timely request from the State. In *State v. Cullen*, 195 S.W.3d 696, 699 (Tex.Crim.App. 2006), the Court of Criminal Appeals held, “upon the request of the losing party on a motion to suppress evidence, the trial court *shall* state its essential findings. By ‘essential findings,’ we mean that the trial court must make findings of fact and conclusions of law adequate to provide an appellate court with a basis upon which to review the trial court’s

application of the law to the facts.” (Emphasis added.) Because the majority purports to review the trial court’s order on a “no evidence” basis (a theory not raised by Appellant) without knowing the factual or legal basis of its decision to exclude evidence obtained after Appellee was placed in custody, I respectfully dissent. Instead of reversing the trial court’s order, I would abate and remand the proceeding for proper findings of fact and conclusions of law.

Patrick A. Pirtle  
Justice

Do not publish.