

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-08-201 CV

IN THE INTEREST OF J.T., D.T., and J.T.

**On Appeal from the 1st District Court
Newton County, Texas
Trial Cause No. 12409**

MEMORANDUM OPINION

The appellant appeals a judgment terminating her parental rights to J.T., D.T., and J.T. Because appellant has been deprived of an appellate record through no fault of her own, we reverse the judgment and remand the case for a new trial.

An appellant is entitled to a new trial if, without the appellant's fault, a timely requested reporter's record has been lost or destroyed, is necessary for the appeal, and cannot be replaced. *See* TEX. R. APP. P. 34.6(f). In this case, the court reporter notified the court that the reporter's record has been lost. We notified the parties and asked if the record could be replaced by agreement or by the trial court. In response, the appellant indicated that the

record could not be replaced and asked that a new trial be ordered. The appellee did not file a response. On November 26, 2008, we notified the parties that we would reverse the trial court's judgment and remand for a new trial unless a party showed cause for a different disposition of the appeal. No response has been filed.

It is undisputed that the record of the trial cannot be prepared because the entire trial record has been lost, that appellant is not at fault, and that the record cannot be replaced by agreement of the parties. TEX. R. APP. P. 34.6(f). Accordingly, we reverse the trial court's judgment and remand the cause for a new trial.

REVERSED AND REMANDED.

CHARLES KREGER
Justice

Opinion Delivered December 18, 2008

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