

NO. 07-11-00382-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL B  
FEBRUARY 3, 2012

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MARCUS WAYNE BARNES, APPELLANT

v.

THE STATE OF TEXAS, APPELLEE

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FROM THE 108TH DISTRICT COURT OF POTTER COUNTY;  
NO. 63,158-E; HONORABLE DOUGLAS WOODBURN, JUDGE

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Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

### **ORDER OF ABATEMENT AND REMAND**

The State has filed a motion to abate and remand this case for preparation of findings of fact and conclusions of law. Following the denial of his motion to suppress, appellant Marcus Wayne Barnes filed a written request for findings of fact and conclusions of law, which requested was granted by written order of the trial court. The requested findings and conclusions were not filed, however.

Accordingly, the appeal is abated and the case remanded to the trial court. The trial court is directed to state its essential findings of fact and conclusions of law adequate to provide this court with a basis on which to review the trial court's

application of the law to the facts. *State v. Cullen*, 195 S.W.3d 696, 699 (Tex.Crim.App. 2006). The trial judge may review the reporter's record to refresh his recollection of the reasons for his rulings. *Wicker v. State*, 740 S.W.2d 779, 784 (Tex.Crim.App. 1987). The trial court shall cause the preparation of a supplemental clerk's record containing its findings and conclusions, together with any orders the court signs during remand, and shall cause the supplemental clerk's record, together with a supplemental reporter's record of any hearing held, to be filed with this court by February 24, 2012. The trial court may seek an extension of that deadline from this court if necessary.

The appeal will be reinstated upon the filing of the supplemental record directed by this order. Based on his review of the trial court's findings and conclusions, appellant may file an amended or supplemental brief within thirty days of the date the case is reinstated. Tex. R. App. P. 38.7. Within ten days of the date the case is reinstated, appellant shall notify this Court and the State in writing whether he elects to file an amended or supplemental brief.

If appellant elects not to file an amended or supplemental brief, the State's brief shall be due thirty days from the date of appellant's written notice. If appellant files an amended or supplemental brief, the State's brief shall be due thirty days from the date of its filing.

It is so ordered.

Per Curiam

Do not publish.