



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-17-00327-CR
No. 07-17-00328-CR

AMADO R. MIRANDA, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 137th District Court
Lubbock County, Texas
Trial Court No. 2005-410,183, Honorable John J. "Trey" McClendon III, Presiding

February 9, 2018

ORDER OF ABATEMENT AND REMAND

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

Appellant Amado R. Miranda appeals from his jury convictions of two counts of indecency with a child¹ and resulting concurrent sentences of twelve years imprisonment. We abate the appeals and remand the causes to the trial court for further proceedings.

The appellate record was originally due on October 9, 2017. The clerk's record was filed in both causes that day. However, on October 10, the court reporter, Ms. Breann

¹ TEX. PENAL CODE ANN. § 21.11(a)(1) (West Supp. 2017).

Hays, notified this Court that she was unable to complete the reporter's record by the deadline due to her case load and requested an extension of thirty days to file the record. Ms. Hays also filed a monthly report reflecting her case load. Accordingly, we granted Ms. Hays a thirty-day extension to file the reporter's record. See TEX. R. APP. P. 35.3(c). Ms. Hays subsequently requested three more extensions of thirty days due to her case load, which this Court granted. By letter on January 10, 2018, we granted an extension to February 7, but admonished Ms. Hays that failure to file the reporter's record by this deadline could result in the appeals being abated and the causes remanded to the trial court. On February 7, 2018, Ms. Hays notified the Court that she was unable to complete the reporter's record by the deadline due to her case load and requested a fifth extension of thirty days.

Accordingly, we deny the request, abate the appeals, and remand the causes to the trial court for further proceedings. See TEX. R. APP. P. 35.3(c); 37.3(a)(2) (requiring an appellate court to "make whatever order is appropriate to avoid further delay and to preserve the parties' rights" when the clerk's record or reporter's record is not timely filed). On remand, the trial court shall use whatever means it finds necessary to determine the following:

- (1) what tasks remain to complete the filing of the reporter's record;
- (2) why Ms. Hays has not completed the necessary tasks;
- (3) what amount of time is reasonably necessary for the completion of those tasks; and
- (4) whether Ms. Hays can complete the tasks within the time the trial court finds reasonable.

Should the trial court determine that Ms. Hays will require more than thirty days to complete, certify, and file the reporter's record, it shall arrange for a substitute reporter to do so. We further direct the trial court to issue findings of fact and conclusions of law addressing the foregoing subjects and any orders it finds necessary. The trial court shall cause its findings, conclusions, and any orders to be included in a supplemental clerk's record to be filed with the clerk of this Court by March 2, 2018. If, before that date, Ms. Hays completes the filing of the reporter's record, the trial court may report that fact to the clerk of this Court in lieu of a supplemental clerk's record.

It is so ordered.

Per Curiam

Do not publish.