

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-05-00632-CR

Jesse Edmon Washington, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 403RD JUDICIAL DISTRICT
NO. 2030206, HONORABLE BRENDA KENNEDY, JUDGE PRESIDING**

MEMORANDUM OPINION

On March 30, 2006, at a hearing in the trial court ordered by this Court pursuant to appellate rule 38.8(b)(2), appellant’s counsel explained his failure to file a brief by saying that the record from a pretrial hearing was missing. Counsel told the court that the missing hearing “has got a good suppression issue.”

From our review of the trial record on file, it appears that the legality of the search and seizure in this cause was litigated at appellant’s trial. Therefore, the appeal is again abated for a hearing in the district court. After hearing any evidence and argument offered by the parties, the court is to answer the following questions: Was any ground for suppressing the inculpatory evidence in this cause advanced at the pretrial hearing that was not advanced and ruled on at trial, and if so, can the parties agree what that ground was? Was any evidence relevant to the suppression issue introduced at the pretrial hearing that was not introduced at trial, and if so, can the parties agree what

that evidence was? *See* Tex. R. App. P. 34.6(f). The record from this hearing with the court's answers to these questions shall be forwarded to the Clerk of this Court for filing as a supplemental record no later than May 26, 2006.

David Puryear, Justice

Before Justices B. A. Smith, Puryear and Waldrop

Filed: April 21, 2006

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