

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-06-00301-CR

The State of Texas, Appellant

v.

Dustin Patino, Appellee

**FROM THE COUNTY COURT AT LAW NO. 2 OF TOM GREEN COUNTY
NO. 05-03490L2, HONORABLE PENNY ANNE ROBERTS, JUDGE PRESIDING**

MEMORANDUM OPINION

The State appeals an order granting Dustin Patino's motion to suppress evidence. Before us is the State's motion to remand for findings of fact and conclusions of law. The motion is granted.

Upon the request of the losing party on a motion to suppress evidence, the court must state for the record its essential findings, that is, the court must make findings of fact and conclusions of law adequate for appellate review of the trial court's application of the law to the facts. *State v. Cullen*, No. PD-984-05, 2006 Tex. Crim. App. LEXIS 1281, at *7-8 (Tex. Crim. App. June 28, 2006). In the instant cause, the State's request for findings and conclusions was made to and refused by the trial court before *Cullen* was announced, but the court's refusal is remediable. *Id.*; see Tex. R. App. P. 44.4(b).

The appeal is abated. The trial court shall prepare and file written findings of fact and conclusions of law stating the basis for its ruling on the motion to suppress. The findings and conclusions shall be forwarded to this Court in a supplemental record no later than August 25, 2006.

David Puryear, Justice

Before Justices B. A. Smith, Puryear and Waldrop

Filed: July 28, 2006

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