

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-09-00224-CV

David Carl Goad, Appellant

v.

State of Texas for the protection of Lisa A. Dunlap, Appellee

**FROM THE DISTRICT COURT OF COMAL COUNTY, 274TH JUDICIAL DISTRICT
NO. C2008-1461C, HONORABLE CHARLES A. STEPHENS II, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant David Carl Goad has filed notice of appeal from the entry of a protective order against him. The clerk of this Court received and filed the trial court clerk's record on May 5, 2009, and the reporter's record on May 22, 2009. The parties disagree, however, regarding the completeness and accuracy of the reporter's record of the December 30, 2008 hearing. Accordingly, this appeal is abated and the cause is remanded to the trial court. Tex. R. App. P. 34.6(e)(3). Upon remand, the trial court is directed to immediately give notice of and conduct a hearing to determine whether the parties can agree to a correction of the reporter's record without the need for the court reporter's recertification of the record. If the parties are unable to agree as to the correction of the record, the trial court shall order the court reporter to conform the reporter's record to what occurred during trial and to certify the corrected record.

The trial court is thus directed to: (1) conduct any necessary hearings; (2) order the court reporter to file a corrected reporter's record of the trial proceedings, to the extent correction

is necessary; (3) make and file appropriate findings of fact and conclusions of law to be included in a supplemental clerk's record; and (4) cause the hearing proceedings to be transcribed and included in a supplemental reporter's record. In the absence of a request for extension of time from the trial court, the corrected reporter's record of the December 30, 2008 hearing on the protective order, the supplemental clerk's record, the reporter's record of the hearing and proceedings pursuant to this order, and any additional records, including any orders, findings, and conclusions, shall be sent to the clerk of this Court no later than September 14, 2009. *See* Tex. R. App. P. 35.3(c).

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Waldrop and Henson

Abated

Filed: August 7, 2009