

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00710-CV

Appellant, B. W. B.// Cross-Appellant, Eanes Independent School District

v.

Appellee, Eanes Independent School District// Cross-Appellee, B. W. B.

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 200TH JUDICIAL DISTRICT
NO. D-1-GN-15-001653, HONORABLE KARIN CRUMP, JUDGE PRESIDING**

MEMORANDUM OPINION

PER CURIAM

This case arose after B.W.B. requested records from Eanes Independent School District (EISD) under the Texas Public Information Act. EISD requested an opinion from the Texas Attorney General's Office as to whether it could withhold the documents. After the Attorney General's Office issued its opinion, B.W.B. filed this suit to compel the production of the documents he seeks. EISD filed a plea to the jurisdiction and a motion for summary judgment. After an oral hearing and *in camera* inspection of the documents, the trial court denied EISD's plea to the jurisdiction, granted EISD's motion for summary judgment in part, and denied EISD's motion for summary judgment in part. Both parties appealed to this Court.

The record before us does not contain unredacted copies of the disputed documents. After the Clerk of this Court directed the district clerk to file a supplemental clerk's record

containing the unredacted documents, counsel for EISD informed us that the trial court returned the documents to EISD after inspecting them *in camera* and that, therefore, the documents are no longer in the possession of the district clerk. EISD's counsel further informed us that he had been "advised by the district clerk's office that the clerk's office cannot accept the documents from [his] office for filing in this Court." However, the trial court has indicated to this Court that it will include the unredacted documents in a supplemental record after receiving the documents from EISD.

Therefore, we abate this appeal and remand the case to the trial court. We direct EISD to return to the trial court the unredacted documents that the court reviewed *in camera* before ruling on EISD's plea to the jurisdiction and motion for summary judgment, and we direct the district clerk to forward those documents to this Court as a supplemental clerk's record within 30 days of the date of this opinion. *See* Tex. R. App. P. 34.5(e); *see also* *Feldman v. Marks*, 960 S.W.2d 613, 615 (Tex. 1996) (per curiam) (noting that "the appellate court must have residual authority to complete the record to assure that justice is done").

It is ordered September 29, 2017.

Before Chief Justice Rose, Justices Field and Bourland

Abated and Remanded

Filed: September 29, 2017