TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00065-CR

Lane Walker Waldron, Appellant

v.

The State of Texas, Appellee

FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT
NO. CR2015-178, HONORABLE JACK H. ROBISON, JUDGE PRESIDING

ORDER AND MEMORANDUM OPINION

PER CURIAM

Following the denial of his pre-trial motion to suppress, Lane Walker Waldron pleaded not guilty to the offense of capital murder, and a trial was convened. *See* Tex. Penal Code § 19.03(a)(8) (providing that person commits capital murder if he commits murder and victim is "under 10 years of age"). At the end of the trial, the jury found Waldron guilty, and the district court rendered its judgment of conviction sentencing Waldron to life imprisonment without parole. *See id.* § 12.31 (setting out punishment for capital offense). After the district court rendered its judgment, Waldron requested findings of fact and conclusions of law explaining the grounds for denying his motion to suppress, but the record in this case does not contain any findings or conclusions regarding the motion to suppress. Waldron has filed a motion asking this Court to abate the case and remand this cause to the district court for entry of findings of fact and conclusions of law.

In *State v. Cullen*, the court of criminal appeals held that "upon the request of the losing party on a motion to suppress evidence, the trial court shall state its essential findings," which the court explained were "findings of fact and conclusions of law adequate to provide an appellate court with a basis upon which to review the trial court's application of the law to the facts." 195 S.W.3d 696, 699 (Tex. Crim. App. 2006). Further, the court has explained that those findings must be "adequate and complete, covering every potentially dispositive issue that might reasonably be said to have arisen in the course of the suppression proceedings." *State v. Elias*, 339 S.W.3d 667, 676 (Tex. Crim. App. 2011). If a trial court fails to enter the requested findings and conclusions, appellate courts are authorized to abate the appeal and remand the cause to the trial court for entry of its "essential findings." *See Cullen*, 195 S.W.3d at 698-700; *see also* Tex. R. App. P. 44.4 (explaining that "[a] court of appeals must not affirm or reverse a judgment . . . if . . . the trial court's . . . failure or refusal to act prevents the proper presentation of a case to the court of appeals" and if "the trial court can correct its action or failure to act" and requiring court of appeals to "direct the trial court to correct the error").

Accordingly, we grant Waldron's motion, abate the appeal, and remand the cause to the district court for entry of its findings of fact and conclusions of law. The district court clerk is instructed to forward to this Court a supplemental clerk's record containing the findings and conclusions no later than August 4, 2017. *See* Tex. R. App. P. 34.5(c) (stating that if appellate court "orders the trial court to prepare and file findings of fact and conclusions of law as required by law, . . . the trial court clerk must prepare, certify, and file in the appellate court a supplemental clerk's record containing those findings and conclusions"). This appeal will be reinstated once the supplemental clerk's record is filed.

It is ordered on June 30, 2017.

Before Justices Puryear, Pemberton, and Goodwin

Abated and Remanded

Filed: June 30, 2017

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