

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00077-CR

Tallion Kyle Taylor, Appellant

v.

The State of Texas, Appellee

**FROM THE 368TH DISTRICT COURT OF WILLIAMSON COUNTY
NO. 15-2925-K368, THE HONORABLE LLOYD DOUGLAS SHAVER, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

The State has filed a motion to abate this appeal to allow the trial court to rule on the State's "Motion to Continue Recusal of the Williamson County District Attorney's Office and Appoint District Attorney Pro Tem." The State explains in the motion to abate that Abel Reyna, then District Attorney of McLennan County, and his assistants were previously appointed as District Attorneys Pro Tem for the prosecution of this case through appeal after the Williamson County District Attorney's Office recused itself from the prosecution of this matter. Since the original appointment, Barry Johnson has replaced Abel Reyna as the District Attorney of McLennan County. That office has informed the Williamson County District Attorney's Office that the McLennan County District Attorney's Office is willing to continue the

appointment for the purpose of this appeal, but that it requires an order specifically appointing Mr. Johnson.

The Court has received a supplemental record containing the State's "Motion to Continue Recusal of the Williamson County District Attorney's Office and Appoint District Attorney Pro Tem," which the State filed with the trial court on the same day that it filed its motion to abate in this Court, and an order granting that motion, which was signed by the presiding judge of the 368th District Court of Williamson County, the Honorable Rick J. Kennon. However, both the record and the State's motion to continue recusal reflect that Judge Kennon has recused himself from this case, and therefore, he can take no action in it. The appeal is abated and remanded to the trial court (1) to allow the Williamson County District Attorney to file its motion to continue recusal and (2) to allow the trial court judge who is currently sitting by assignment to rule on the State's motion. The trial court shall order the appropriate supplemental clerk's record, including the order on the motion to continue recusal and to appoint Mr. Johnson, to be prepared and forwarded to this Court no later than June 10, 2019.

It is so ordered May 31, 2019.

Before Justices Goodwin, Baker, and Triana

Abated and Remanded

Filed: May 31, 2019

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