

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-19-00710-CR**

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**The State of Texas, Appellant**

**v.**

**Patrick W. Colby, Appellee**

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**FROM THE COUNTY COURT AT LAW NO. 6 OF TRAVIS COUNTY  
NO. C-1-CR-17-214244, THE HONORABLE BRANDY MUELLER, JUDGE PRESIDING**

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**ORDER AND MEMORANDUM OPINION**

**PER CURIAM**

Appellee has filed a motion to abate this appeal and remand the case to the trial court for resolution of a reporter's record dispute. *See* Tex. R. App. P. 34.6(e)(3). Appellee asserts that the only exhibit filed with the reporter's record in this appeal is not the exhibit that was entered into evidence at the pretrial hearing that is the subject of this appeal. Appellee asserts that counsel for both sides agreed at the hearing that the dash-camera video, not the arresting officer's body-camera video, would be admitted into evidence, and that it was the dash-camera video that was played during the hearing and referenced in appellee's cross-examination of the arresting officer and appellee's closing argument. However, the body-camera video is the only exhibit that is on file with this Court as part of the appellate record. Although appellee stated that appellant opposed the motion, no response to the motion was filed by appellant.

We grant the motion. The appeal is abated and remanded to the trial court for it to settle the parties' dispute. *See id.* R. 34.6(e)(2). The trial court shall conduct a hearing, and if it finds any inaccuracy, it must order the court reporter to conform the reporter's record to what occurred in the trial court and to file certified corrections in this Court. *Id.* Following the hearing, which shall be transcribed, the trial court shall order the appropriate supplemental clerk's and reporter's records—including all findings and orders—to be prepared and forwarded to this Court no later than December 27, 2019. *See id.*

It is so ordered November 26, 2019.

Before Chief Justice Rose, Justices Triana and Smith

Abated and Remanded

Filed: November 26, 2019

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