

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-21-00063-CR

The State of Texas, Appellant

v.

Tristan Graham Stecker, Appellee

**FROM COUNTY COURT AT LAW NO 3 OF HAYS COUNTY
NO. 19-6431CR-3, THE HONORABLE MILLIE THOMPSON, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

The State of Texas has filed a notice of appeal from the trial court's order granting Tristan Graham Stecker's motion to suppress evidence. Before filing its notice of appeal, the State filed a request for the trial court to make findings of fact and conclusions of law. No findings or conclusions were made before the clerk's record and the reporter's record were filed with this Court. The State has now filed a motion to abate and remand the cause to the trial court for entry of findings of fact and conclusions of law.

The Texas Court of Criminal Appeals has 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 defined as "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." *State v.*

Cullen, 195 S.W.3d 696, 699 (Tex. Crim. App. 2006). When the trial court fails to make such findings and conclusions, we are required to abate the appeal and remand the cause to the trial court for entry of its “essential findings.” *State v. Elias*, 339 S.W.3d 667, 677 (Tex. Crim. App. 2011); *see also Green v. State*, 906 S.W.2d 937, 939–40 & n.4 (Tex. Crim. App. 1995) (holding that when trial record has been filed with appellate court, “the trial court no longer has jurisdiction to adjudicate the case” and that “[t]he proper way to revive the trial court’s authority to take action is by abatement”).

Accordingly, we grant the State’s motion. We abate the appeal and remand the cause to the trial court for entry of its findings of fact and conclusions of law. A supplemental clerk’s record containing the findings of fact and conclusions of law shall be filed with this Court no later than April 30, 2021. This appeal will be reinstated once the supplemental clerk’s record is filed.

It is so ordered March 30, 2021.

Before Justices Goodwin, Triana, and Kelly

Abated and remanded

Filed: March 30, 2021

Do Not Publish