

COURT OF APPEALS OF THE FIFTH DISTRICT OF TEXAS AT DALLAS

Simon Samuel Lopez, Jr. v. State

No. 05-16-01024-CR · No. No. 05-16-01024-CR · Decided February 7, 2017

SUMMARY

The Court of Appeals for the Fifth District of Texas granted appellant's motion to the extent that it ordered the Collin County District Clerk and court reporter to file supplemental records containing specified items within thirty days. The court also ordered appellant's brief filed within sixty days and directed that copies of the order be sent to specified court personnel and counsel.

CASE DETAILS

COURT	Court of Appeals of the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Lana Myers
JURISDICTION	Texas
DECIDED	February 7, 2017
DOCKET	No. 05-16-01024-CR
DISPOSITION	other
PROCEDURAL POSTURE	On appeal from the 219th Judicial District Court of Collin County, appellant moved to abate the appeal to obtain supplemental clerk's and reporter's records needed to prepare his brief.
PRECEDENTIAL VALUE	published
PARTIES	Simon Samuel Lopez, Jr. v. The State of Texas

TOPICS

appellate procedure

criminal procedure

PRACTICE AREAS

Appellate procedure

Criminal procedure

QUESTIONS PRESENTED

1. Whether the appeal should be abated or otherwise supplemented to allow the district clerk and court reporter to file requested portions of the record.

HOLDINGS

1. The court granted appellant's motion in part and ordered the Collin County District Clerk and court reporter to file supplemental records containing the requested items that were not already included in the existing clerk's and reporter's records.

FACTUAL BACKGROUND

Appellant stated that he had requested additional items from the Collin County District Clerk and court reporter that had not previously been included in the appellate record. He asserted that the items were necessary for him to file his appellate brief.

PROCEDURAL HISTORY

Appellant requested supplemental records from the Collin County District Clerk and the court reporter and moved the court of appeals to abate the appeal for thirty days. The court granted the motion in part, ordered the supplemental records filed within thirty days, and ordered appellant's brief filed within sixty days.

DISPOSITION

other

REMAND INSTRUCTIONS

The Collin County District Clerk and Court Reporter Indu Bailey were ordered to file the requested supplemental records within thirty days. Appellant was ordered to file his brief within sixty days.

OPINION

PER CURIAM.

Order entered February 7, 2017 In The Court of Appeals Fifth District of Texas at Dallas No. 05-16-01024-CR SIMON SAMUEL LOPEZ, JR., Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 219th Judicial District Court Collin County, Texas Trial Court Cause No. 380-80596-10 ORDER The Court has before it appellant's February 2, 2017 motion to abate this appeal.

In the motion, appellant states he has asked both the Collin County District Clerk and court reporter Indu Baily to file supplemental records with various items not requested previously by former appellate counsel. Appellant contends these items, detailed in his January 25, 2017 requests to the district clerk and the court reporter (attached to the motion filed with this Court and on file in the trial court), are needed in order for him to file his brief.

He asks that we abate the appeal for thirty days in order to give the Collin County District Clerk and the Court Reporter time to file supplemental records. We GRANT appellant's motion to the extent that we ORDER the Collin County District Clerk and Court Reporter Indu Bailey to file

supplemental records containing the items appellant requested on January 25, 2017 within THIRTY DAYS of the date of this order.

The supplemental records should contain only those items requested but not already filed in the September 26, 2016 clerk's record and the October 27, 2016 reporter's record. We ORDER appellant's brief filed no later than SIXTY DAYS from the date of this order.

We DIRECT the Clerk to send copies of this order to the Scott Becker, Presiding Judge, 219th Judicial District Court; Indu Bailey, court reporter, 219th Judicial District Court; Lynne Finley, Collin County District Clerk; and counsel for all parties. /s/ LANA MYERS JUSTICE