

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**B. D. and S. D. v. Texas Department of Family and Protective Services**

No. 03-20-00118-CV · No. No. 03-20-00118-CV · Decided April 13, 2020

SUMMARY

The Texas Court of Appeals for the Third District partially granted appellant B. D.’s motion concerning access to sealed exhibits and the completion of the reporter’s record. The court ordered production of the complete reporter’s record upon receipt of a sealed-documents acknowledgment form, dismissed other requested relief as moot, and set May 11, 2020, as the deadline for appellants’ briefs.

CASE DETAILS

|                       |                                                                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Texas Court of Appeals, Third District, at Austin                                                                                                                                                                       |
| WRITING FOR THE COURT | Chief Justice Rose; Justice Baker; Justice Triana                                                                                                                                                                       |
| JURISDICTION          | Texas                                                                                                                                                                                                                   |
| DECIDED               | April 13, 2020                                                                                                                                                                                                          |
| DOCKET                | No. 03-20-00118-CV                                                                                                                                                                                                      |
| DISPOSITION           | other                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | During an accelerated appeal from a suit for termination of parental rights, appellant B. D. moved to abate the appeal, obtain sealed exhibits and a complete reporter's record, and recalculate the briefing deadline. |
| PRECEDENTIAL VALUE    | Published order; no reporter citation appears in the supplied text                                                                                                                                                      |
| PARTIES               | B. D., S. D. v. Texas Department of Family and Protective Services                                                                                                                                                      |

TOPICS

appellate procedure

termination of parental rights

family law procedure

contempt

PRACTICE AREAS

Appellate procedure

Family law

Termination of parental rights

QUESTIONS PRESENTED

1. Whether the appellate court should provide appellant's counsel access to the sealed exhibits and a complete reporter's record.
2. Whether the appeal should be abated and the appellant's briefing deadline recalculated while counsel obtained the complete record.
3. What briefing deadline should apply in light of the accelerated schedule for termination-of-parental-rights appeals.

## HOLDINGS

1. The court granted the motion in part and ordered the clerk to provide counsel with the sealed-documents acknowledgment form and to produce a complete reporter's record, including the sealed exhibits, upon receipt of the completed form.
2. The requests to abate the appeal and separately order the court reporter to provide the sealed exhibits were dismissed as moot.
3. The appellants' briefs were ordered filed no later than May 11, 2020, and counsel could be required to show cause why they should not be held in contempt if the briefs were not timely filed.

## KEY QUOTATIONS

*"The rules of judicial administration accelerate the final disposition of appeals from suits for termination of parental rights."* (Order)

*"If the brief is not filed by that date, counsel may be required to show cause why they should not be held in contempt of court."* (Order)

## FACTUAL BACKGROUND

The appeal involved a suit for termination of parental rights. Appellant B. D. represented that counsel had not obtained a complete appellate record, including sealed exhibits held by the court reporter. The court addressed the record-access request and the accelerated briefing schedule applicable to termination-of-parental-rights appeals.

## PROCEDURAL HISTORY

The appeal arose from the 453rd District Court of Hays County, cause number 19-0743. While the appeal was pending, B. D. sought access to sealed portions of the reporter's record and additional time to file the appellant's brief. The court of appeals granted the motion in part, dismissed portions as moot, ordered production of the complete record upon completion of a sealed-documents acknowledgment form, and set a briefing deadline.

## DISPOSITION

other

## OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-20-00118-CV B. D. and S. D., Appellants v. Texas Department of Family and Protective Services, Appellee FROM THE 453RD DISTRICT COURT OF HAYS COUNTY, NO. 19-0743, THE HONORABLE DAVID JUNKIN, JUDGE PRESIDING ORDER PER CURIAM Appellant B. D. has filed an “Unopposed Motion to Abate, Enter Orders to the Court Reporter, and Recalculate Due Date for Appellant B.D.’s Brief and/or Other Relief.” Appellant requests that the Court: (1) abate the case until his counsel obtains a complete record, including certain sealed exhibits from the court reporter; (2) order the court reporter to provide those sealed exhibits to counsel; (3) recalculate the due date of his brief from the date he receives the records; and (4) enter whatever other orders the Court deems just and appropriate.

We grant the motion in part. The Court orders the Clerk of this Court to provide appellant’s counsel with a copy of the Court’s sealed documents acknowledgement form and to produce a complete reporter’s record, including copies of the sealed exhibits, to appellant’s counsel upon receipt of the completed acknowledgment form.

We further order appellant’s counsel to return the copy of the reporter’s record to the Court when briefing in the appeal is complete. We dismiss as moot appellant’s motion to abate and to order the court reporter to provide the sealed exhibits.

The rules of judicial administration accelerate the final disposition of appeals from suits for termination of parental rights. See Tex. R. Jud. Admin. 6.2(a) (providing 180 days for court’s final disposition). The accelerated schedule constrains this Court’s leeway in granting extensions.

In this instance, we will grant the motion and order Terry “Ty” Wesley Barker and Amanda Wilhelm to file appellants’ briefs no later than May 11, 2020. If the brief is not filed by that date, counsel may be required to show cause why they should not be held in contempt of court. It is so ordered on April 13, 2020.

Before Chief Justice Rose, Justices Baker and Triana 2