

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Maria Martinez v. Mario Antonio Perez Batres

Martinez · No. 03-24-00388-CV · Decided March 31, 2026

SUMMARY

The Texas Court of Appeals, Third District, abated Maria Martinez’s restricted appeal from a default divorce decree and remanded the matter to the trial court. The trial court was directed to address the absence of twelve admitted exhibits from the appellate record and to make any required findings or authorize supplemental filings under Texas Rule of Appellate Procedure 34.6.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Per Curiam; Chief Justice Byrne; Justice Kelly; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, at Austin
DECIDED	March 31, 2026
DOCKET	03-24-00388-CV
DISPOSITION	remanded
PROCEDURAL POSTURE	Restricted appeal from a default divorce decree in which the appellate record omitted twelve admitted exhibits.
PRECEDENTIAL VALUE	Published metadata indicates published status, but the opinion itself states Do Not Publish.
PARTIES	Maria Martinez v. Mario Antonio Perez Batres

TOPICS

- family law procedure
- divorce
- default judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

- Family law
- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

- Whether the appellate court should abate the restricted appeal and submit the omission of admitted exhibits to the trial court for resolution under Texas Rule of Appellate Procedure 34.6.

2. What procedures the trial court must follow to resolve disputes concerning the accuracy, availability, or inspection of the omitted exhibits.

HOLDINGS

1. When the appellate record omits admitted exhibits and the circumstances suggest that a supplemental reporter's record would be futile, the appellate court may abate the appeal and remand the record issue to the trial court for resolution under Texas Rule of Appellate Procedure 34.6.
2. The trial court must conduct the proceedings required by Rule 34.6, including notice and a hearing if the parties cannot agree, and must make findings and order any necessary certified corrections or supplemental filings.

KEY QUOTATIONS

“If the court finds any inaccuracy, it must order the court reporter to conform the reporter’s record (including text and any exhibits) to what occurred in the trial court, and to file certified corrections in the appellate court.” (2)

FACTUAL BACKGROUND

At a March 1, 2024 default divorce hearing, Perez Batres offered twelve exhibits, and the trial court admitted them. At the end of the hearing, the trial court released the exhibits to Perez Batres's counsel while allowing counsel to retain possession pending any further action by Martinez. Martinez later requested that the exhibits be included in the reporter's record, but none were included because they had not been filed with the district clerk and the transcriber could not obtain them.

PROCEDURAL HISTORY

Martinez brought a restricted appeal from a default divorce decree entered by the 483rd District Court of Hays County. She requested that the official reporter prepare a reporter's record designating all exhibits admitted at the March 1, 2024 hearing. The reporter's record listed twelve exhibits but stated that they had not been filed with the district clerk and could not be obtained from counsel. Because the appellate court concluded that directing the court reporter to prepare a supplemental record would likely be futile, it abated the appeal and remanded the record issue to the trial court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The appeal is abated and the trial court must resolve the omission and accuracy of the twelve exhibits under Texas Rule of Appellate Procedure 34.6. The trial court must provide notice and conduct a hearing if necessary, determine whether corrections are possible, make findings under Rule 34.6(f) if the exhibits are lost or destroyed, and proceed under Rule 34.6(g) if original exhibits should be inspected by or sent to the appellate court. Findings and any necessary supplemental records must be filed within 30 days of March 31, 2026.

OPINION

Maria Martinez v. Mario Antonio Perez Batres

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-24-00388-CV

Maria Martinez, Appellant v. Mario Antonio Perez Batres, Appellee

FROM THE 483RD DISTRICT COURT OF HAYS COUNTY

NO. 23-2772, THE HONORABLE KARL HAYS, JUDGE PRESIDING

ORDER AND MEMORANDUM OPINION

PER CURIAM

Pending before this court is Maria Martinez’s restricted appeal of a default divorce decree. Martinez requested, in writing, that the official reporter prepare the reporter’s record. The request designated the exhibits to be included as “all exhibits admitted into evidence—from the proceedings of March 1, 2024, as recorded.” See Tex. R. App. P. 34.6(b). The reporter’s record reflects that at the March 1, 2024 default divorce hearing, Perez Batres offered, and the trial court admitted, twelve exhibits. At the end of the hearing, the trial court stated: The Court: . . . And at some point, I’m—on the record, I am releasing to you the exhibits that were presented to the Court. Do you want to—I’m assuming you have your copies. Do you want to just hold onto those and I can then dispose of what I have and you’ll just retain possession of Exhibits 1 through 12—Perez Batres’s Counsel: Yes, sir. The Court: —pending any further action that may be taken by Ms. Martinez in this matter? Perez Batres’s Counsel: Yes, sir. The Court: All right. Then we’ll do that. If there’s nothing further coming before the Court with regard to Cause No. 23-2772, we will stand in adjournment with respect to the case. The index to the reporter’s record from the hearing lists the twelve exhibits but contains the notation: “The exhibits were not filed with the District Clerk and the transcriber was unable to obtain them from Attorney Art Guzman.” None of the exhibits are included in the record before us. We normally would direct the official court reporter to prepare, certify, and file in the appellate court a supplemental reporter’s record containing the omitted items. See Tex. R. App. P. 34.6(d). The record before us suggests that would be a futile act. Because of the unique circumstances in this case, we abate this appeal and submit this gap in the record to the trial court for resolution. Rule 34.6(e)(1) provides that the parties may agree to correct an inaccuracy in the reporter’s record, including those related to exhibits, without the court reporter’s recertification. *Id.*, R. 34.6(e)(1). But here, Martinez asserts that because the trial court returned the exhibits to Perez Batres, it foreclosed “the possibility of a clean chain-of-custody over those crucial exhibits from its courtroom to this court.” Rule 34.6(e)(2) provides that if the parties cannot agree on whether or how to correct the reporter’s record so that the exhibits are accurate, “the trial court must—after notice and hearing—settle the dispute.” *Id.*, R. 34.6(e)(2). “If the court finds any inaccuracy, it must 2 order the court reporter to conform the reporter’s record (including text and any exhibits) to what occurred in the trial court, and to file certified corrections in the

appellate court.” Id. If such certified corrections are not possible because the exhibits have been lost or destroyed, we order the trial court to make findings under Rule 34.6(f). Id., R. 34.6(f). Finally, if the trial court determines that original exhibits should be inspected by this Court or sent to this Court in lieu of copies, the trial court must proceed under Rule 34.6(g). Id., R. 34.6(g). The findings shall be made, and any necessary supplements shall be filed within 30 days of the date of this order. It is so ordered March 31, 2026. Before Chief Justice Byrne, Justices Kelly and Ellis Abated and Remanded Filed: March 31, 2026 Do Not Publish 3