

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
September 15, 2026 Session

FILED

10/20/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. WILLIAM B. MORTON

**Appeal from the Circuit Court for Warren County
No. 2024-CR-4511 Larry B. Stanley, Jr., Judge**

No. M2025-01793-CCA-R3-CD

Pursuant to Tennessee Rule of Criminal Procedure 37, the Defendant, William B. Morton, appeals a certified question of law related to the trial court's denial of his motion to suppress the results of blood alcohol testing performed on a sample of his blood obtained via search warrant. Following our de novo review of the question presented and our examination of the record, we conclude that the certified question fails to identify the scope and limits of the issue presented and is not dispositive of the case. Thus, in keeping with the recent directive of our supreme court, we dismiss the appeal and remand the case to the trial court to provide the Defendant an opportunity to withdraw his guilty plea.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed; Remanded

STACY L. STREET, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and JILL BARTEE AYERS, JJ., joined.

Paul Andrew Justice, III, Murfreesboro, Tennessee, for the appellant, William B. Morton.

Jonathan Skrmetti, Attorney General and Reporter; William C. Lundy, Assistant Attorney General; Christopher R. Stanford, District Attorney General;¹ and Ryan J. Jones, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

This appeal arises from the Defendant's guilty-pleaded conviction for driving with a blood alcohol content greater than .08% (DUI, per se).

¹ Governor Bill Lee appointed Matt Colvard to replace Mr. Stanford in November 2025, after the proceedings in the trial court had concluded, and Mr. Colvard was elected to office in August 2026.

Factual and Procedural Background

On November 2, 2023, Warren County Sheriff's Department Deputy Jordan Fann responded to a gas station after a concerned citizen reported a dark-colored Toyota Tacoma truck being driven recklessly and encountered the Defendant sitting behind the wheel of a truck matching that description. Deputy Fann spoke briefly with the Defendant and, suspecting that the Defendant was under the influence, Deputy Fann asked the Defendant to perform Field Sobriety Tests (FSTs). The Defendant was too impaired to complete the tests and was placed under arrest. Thereafter, deputies obtained a search warrant to collect a sample of the Defendant's blood for forensic testing.

In April 2024, the Warren County Grand Jury charged the Defendant with DUI and driving with a blood alcohol content (BAC) greater than .08% (DUI per se). Following his indictment, the Defendant moved to suppress the evidence seized during the traffic stop, particularly the results of BAC testing conducted on the sample of his blood collected pursuant to a search warrant. As is relevant to this appeal, the Defendant asserted that the deputy failed to provide him with a true and exact copy of the signed search warrant in violation of Tennessee Rule of Criminal Procedure 41 and that this failure required suppression of the BAC testing results.

At the hearing on the Defendant's motion, now Lieutenant Fann testified that he was "dispatched to a reckless driver call" based on a report from a concerned citizen that someone driving "a dark-colored Toyota truck" with "a cattle trailer" was driving recklessly. When he saw a truck matching that description, Lieutenant Fann "made a U-turn, and got behind him." He followed the truck, and, when the driver began pulling into a market, Lieutenant Fann "turned my lights on to let him know that he was going to be, you know, stopped at that time and pulled behind him." When he approached the truck, Lieutenant Fann saw the Defendant seated in the driver's seat. He asked the Defendant if he "had been drinking because I could obviously smell it. And the driver and the passenger both said they had been drinking that night."

At that point, Lieutenant Fann asked the Defendant to perform FSTs. During the horizontal gaze nystagmus test, Lieutenant Fann observed "nystagmus present in all phases of that." He also saw that the Defendant "was having trouble [and] doing a lot of swaying and stuff like that" and became concerned that the Defendant "was going to fall and possibly hurt himself." Lieutenant Fann ended the FSTs, placed the Defendant under arrest, and obtained a search warrant for a sample of the Defendant's blood.

On cross-examination, the Defendant exhibited to the lieutenant's testimony an unsigned copy of the search warrant, and Lieutenant Fann described it as one of "[m]ultiple[]" copies that were printed "before it was signed." When asked if it was the sheriff's department's "practice" to make copies before the warrant was signed, he replied,

“Sometimes, multiple copies get made before the judge signs them. And this would be one of those instances.” The Defendant did not ask Lieutenant Fann if the unsigned copy of the warrant exhibited to the hearing was the warrant that was actually served on the Defendant before his blood was drawn.²

The Defendant also testified but was not asked any questions about the search warrant or the drawing of his blood. Notably, however, the Defendant acknowledged that he “was intoxicated” after having consumed “several beers” and that his intoxication “impaired everything, judgment, memory.”

At the conclusion of the hearing, the Defendant argued that it was “undisputed” that he was not served with a signed copy of the warrant as required by Tennessee Rule of Criminal Procedure 41 and that “the [S]tate really hasn’t even argued [] good faith, but the officer has admitted that this is not a one-time glitch. This is just something that they sometimes do.” Addressing the Defendant’s argument, the State cited a footnote in *State v. McElrath*, 569 S.W.3d 565 (Tenn. 2019), in which our supreme court explained that the exclusionary rule applicable to Rule 41 violations had changed because the legislature had amended the language to allow rather than mandate suppression.³ The State argued that “the harsh remedy” of excluding BAC testing results was “not warranted” because there had been no showing of prejudice or harm to the Defendant as a result of the fact that the copy of the warrant given to him was unsigned. The Defendant argued that the change to Rule 41 did not absolve the State of the burden to prove the existence of good faith. The State responded that Rule 41 contained no language requiring a showing of good faith. Upon questioning by the trial court, the State confirmed that a signed search warrant and warrant affidavit existed and had been provided to the Defendant in the discovery

² The bulk of Lieutenant Fann’s testimony concerned reasonable suspicion for the traffic stop, which we do not summarize as it is not at issue in this appeal.

³ The footnote provides:

Effective July 1, 2018, Rule 41 has been amended to provide trial courts the discretion to determine whether to exclude evidence that was seized pursuant to a search warrant that meets constitutional requirements but is noncompliant with Rule 41’s technical requirements. The amendment also aligns Rule 41 with recent statutory changes and developments in case law. In applying Rule 41 during hearings on motions to suppress the evidence, trial judges will hereafter have discretion to consider variations of the good-faith exception as described herein. In doing so, we urge the trial courts to consider the following non-exhaustive factors: (1) whether the police error was the result of simple negligence rather than systemic error; (2) whether the error was the result of reckless disregard of constitutional requirements; (3) whether the error was isolated rather than recurrent; and (4) whether the error existed, undetected or uncorrected, for such an amount of time as to indicate reckless or gross negligence.

materials. The trial court examined these documents, but they were not entered into evidence.

Following the hearing, the trial court issued a written order denying the motion to suppress. As is relevant here, the trial court concluded that the warrant was not “properly served as required by” Rule 41. The court found that “it was incredibly negligent, and bad practice, to serve an unsigned copy of a search warrant.” The court noted that “the State argued that this error does not require suppression of the evidence, even if the officer failed to act in good faith” and found “that the rule was violated, but that the Constitution was satisfied because the State did at least have a valid search warrant and affidavit.”

Following the trial court’s ruling, the Defendant moved the trial court to “revise its ruling” or grant an interlocutory appeal of the order. The Defendant argued that the Rule 41 violation should have resulted “in suppression of the evidence unless the good-faith exception applies.” He argued that because the State did not rely on the good-faith exception and presented no evidence that the exception applied, the court should have granted his motion.

In its response, the State argued that the Defendant’s alleged factual basis for the claimed Rule 41 violation was inaccurate because although he was given an unsigned copy of the search warrant, the warrant served on the Defendant at the time of the blood draw was signed. The prosecutor said that although he had initially taken the “Defendant’s word as accurate on the issue,” he learned after the suppression hearing that Lieutenant Fann misunderstood the nature of the Defendant’s inquiry at the hearing. The State appended to its motion a USB drive containing a copy of footage from Deputy Fann’s body worn camera (BWC) and claimed that “the video clearly shows that the copy of the warrant that was served on [the Defendant] was indeed signed.” The State argued that this fact “drastically reduces the severity of the Rule 41 violation.” Citing *State v. Daniel*, 552 S.W.3d 832 (Tenn. 2018), the State argued that suppression was not required because the failure to provide the Defendant with a signed copy of the warrant was “a simple, inadvertent oversight” that did not result in prejudice to the Defendant.

Additionally, the State observed that Rule 41 no longer mandated suppression for a procedural violation and instead placed the issue within the discretion of the trial court. Citing a trio of Tennessee Supreme Court cases, the State asserted that the change in language removed the requirement that the trial court make “a good-faith determination” before ruling on a motion to suppress based on a Rule 41 violation. The State said that it did not present any proof on the issue of good faith because the issue was not apparent at the suppression hearing and asked for “a hearing to introduce proof of good faith.”

The trial court denied the Defendant’s motion by written order. In the order, the trial court concluded based upon its “review of the Defendant’s Motion, the brief submitted

and the transcript from the hearing on November 20, 2024, that its earlier order denying the motion to suppress should be modified as is relevant to this appeal to include the following:

In paragraph “3”, the following sentence should be added after the word affidavit. “The officer acted in good faith by seeking and obtaining a search warrant and there was no prejudice to the Defendant.”

The resulting order thus included a specific finding that Lieutenant Mann acted in good faith.

The case proceeded to trial on August 6, 2025, but ended in a mistrial that same day when the jury was unable to reach a verdict. Thereafter, pursuant to a plea agreement, the Defendant pleaded guilty to DUI per se, subject to the trial court’s “consent” to his reserving a certified question of law, in exchange for a sentence of eleven months and twenty-nine days to be served as seven days’ incarceration followed by probation and dismissal of the count charging DUI. Neither party stated the certified question on the record during the guilty-plea submission hearing. Although the question was included in the plea documents, no discussion of the question took place on the record, and the record contains no on-the-record finding by the trial court that the question was dispositive. The “Special Conditions” portion of the judgment document indicates that “[t]he State agrees to the [D]efendant reserving a certified question of law” and that the certified question is attached as an exhibit to the judgment. The judgment document contains no finding by the trial court that the certified question is dispositive of the case.

The Defendant filed a timely notice of appeal.

Analysis

The Defendant appeals the following certified question of law:

The police seized William Morton’s blood per a search warrant, and later the State analyzed the blood for use in a prosecution of DUI Per Se. (A separate charge of Ordinary DUI was later dismissed voluntarily, by plea agreement.) To be clear, everyone agrees that the incriminating blood evidence formed the only evidence that could potentially prove guilt for DUI Per Se, and without such evidence, this case cannot proceed.

Before trial, Morton moved to suppress the fruit of the blood warrant for violation of Rule 41 of Criminal Procedure, namely that the officer and magistrate had failed to make two exact copies of the warrant, and the officer had failed to serve a true copy on him. Instead, at the suppression hearing,

the officer acknowledged that he only served an unsigned copy. Moreover, he acknowledged that officers at his Department serve unsigned copies somewhat commonly (albeit not every time). Given the common practice, Morton argued that no “good faith” defense could apply, and that the court should instead suppress the search for violation of Rule 41.

In response, the State did not invoke good faith, but rather it argued that a 2018 amendment to Rule 41 gives a judge discretion to deny suppression — even where the police act in bad faith. (In reply, Morton argued that the cited language only underscores the need to exercise reasonable discretion when judging good or bad faith.)

In the end, the judge held that the officer indeed violated Rule 41 and that he acted in “incredibly negligent” fashion, pursuant to “bad practice,” when serving the unsigned warrant. Nonetheless, the judge agreed with the State that suppression was not required — since only Rule 41 was violated, not the Constitution. Consequently, he denied the motion to suppress.

Without any good faith by the police, should the judge have suppressed the blood for violation of Rule 41 of Criminal Procedure?

On appeal, the Defendant argues that “[w]ithout good faith, the court should have suppressed the evidence” and asserts that “everyone seems to agree that no good faith even exists.” He dismisses the trial court’s finding of good faith as reflected in its order on the motion to reconsider as “just praising the officer for going to the trouble of getting the warrant” but asserts that “even if the judge *had* found good faith on the copying and service errors, then any such finding would be mistaken” and “an abuse of discretion.” The State asserts that the certified question is not dispositive because the trial court did not find that Lieutenant Fann did not act in good faith and that the question does not clearly identify the scope and limit of the issue reserved. Alternatively, the State asks this court to affirm because Rule 41 imposes no burden on the State to prove good faith.

I. Jurisdiction

As in any other appeal, we must first determine whether this court is authorized to hear the case. Jurisdiction to hear a direct appeal following a guilty plea generally must be predicated upon the provisions for reserving a certified question of law contained in Tennessee Rule of Appellate Procedure 37. Tennessee Rule of Criminal Procedure 37(b), as is applicable in this case, provides that a defendant who meets the following requirements may appeal “any judgment of conviction” entered on a plea of guilty:

- (i) the judgment of conviction or order reserving the certified question that is filed before the notice of appeal is filed contains a statement of the certified question of law that the defendant reserved for appellate review;
- (ii) the question of law as stated in the judgment or order reserving the certified question identifies clearly the scope and limits of the legal issue reserved;
- (iii) the judgment or order reserving the certified question reflects that the certified question was expressly reserved with the consent of the state and the trial court; and
- (iv) the judgment or order reserving the certified question reflects that the defendant, the state, and the trial court are of the opinion that the certified question is dispositive of the case[.]

Tenn. R. Crim. P. 37(b)(2)(A). Recently, in two companion cases, our supreme court clarified the procedural requirements for the appeal of a certified question pursuant to Rule 37.

In *State v. Burrell*, the court examined the history of Rule 37 “to consider potential revisions to the procedure and analysis for certified questions.” *State v. Burrell*, --- S.W.3d ---, No. E2023-01404-SC-R11-CD, 2026 WL 2329459, at *3 (Tenn. Aug. 12, 2026). The court reiterated that the procedural requirements contained in the rule “must be strictly construed.” *Id.* (first citing *State v. Day*, 263 S.W.3d 891, 899 (Tenn. 2008); and then citing *State v. Armstrong*, 126 S.W.3d 908, 911 (Tenn. 2003); and then citing *State v. Irwin*, 962 S.W.2d 477, 479 (Tenn. 1998)). At issue in *Burrell* was the Rule’s requirement that “the question of law as stated in the judgment or order reserving the certified question identif[y] clearly the scope and limits of the legal issue reserved.” Tenn. R. Crim. P. 37(b)(2)(A)(ii); see *Burrell*, --- S.W.3d at ---, 2026 WL 2329459, at *4-5. Ultimately, the court “construe[d] Rule 37(b)(2)(A)(ii)’s requirement that a certified question identify ‘the scope and limits of the legal issue reserved’ to mean that the question must delineate the range and boundaries of the subject matter to be decided.” *Burrell*, --- S.W.3d at ---, 2026 WL 2329459, at *5. The court further held that, to make this determination, a reviewing court must examine not only the question itself but also the underlying record. See *id.* at *6. “Rule 37(b)(2)(A)(ii) is satisfied when the certified-question statement, read together with the record, contains enough detail to allow the appellate court to identify the scope and limits of the issue.” *Id.* The court “conclud[ed] that, when read in light of the record,” *Burrell*’s “certified question provide[d] sufficient information for the appellate court to discern the range and boundaries of the legal issue reserved for review” and that, as a result, he “satisfied the scope-and-limits requirement of Rule 37(b)(2)(A)(ii).” *Id.* at *7. Thus,

Burrell stands for the proposition that a reviewing court must examine the record as a whole when determining whether the defendant has satisfied the scope-and-limits requirement.

In *State v. Bishop*, the supreme court “address[ed] the requirement that a certified question be “dispositive of the case.” *State v. Bishop*, --- S.W.3d ---, No. W2023-00713-SC-R11-CD, 2026 WL 2329478, at *1 (Tenn. Aug. 12, 2026) (citing Tenn. R. Crim. P. 37(b)(2)(A), (D)). The court reiterated that “the burden is on the defendant to ensure that the judgment or relevant order complies with the requirements of Rule 37(b)(2)(A)(i)–(iv)” and that “[t]he failure of the judgment or order to comply with those requirements results in dismissal of the appeal.” *Id.* at *6 (citations omitted). Among these requirements is the mandate that the parties and the trial court “determine and agree that a certified question is dispositive of the case.” *Id.* at *8 (citations omitted). Our supreme court observed that “[a]n on-the-record colloquy” regarding the question “often would serve to ensure a ‘meaningful determination’” of whether the question was dispositive of the case. *Id.* The court stopped short of mandating an on-the-record colloquy because “the dispositive nature of a certified question may be more readily apparent in some cases than in others.” *Id.* (citing Tenn. R. Crim. P. 37, Advisory Comm’n cmt.). Nevertheless, the court

encourage[d] the parties and the trial court: (1) to conduct an on-the-record colloquy at the guilty plea hearing, or otherwise, (2) in which the parties articulate precisely how the certified question is dispositive of the case, and (3) in which the trial court makes findings to facilitate the determination of the issue.

Id.

The supreme court also emphasized that neither the trial court nor the reviewing court is bound by the parties’ agreement that the certified question is dispositive and that, instead, both must consider the issue independently: “Just as a trial court must determine whether a certified question is dispositive without regard to the agreement between a defendant and the State, so too an appellate court must make an independent determination without regard to the proceedings below.” *Id.* at *11. The court confirmed that appellate review is de novo. *See id.* Should we conclude that the certified question is not dispositive, we must dismiss the appeal, “vacate the judgment of the trial court[,] and remand so that the defendant has the opportunity to withdraw the conditional plea that included the certified question.” *Id.*

Taken together, *Burrell* and *Bishop* mandate consideration of the record as a whole to make an independent determination of whether the certified question is dispositive and whether the certified question meets the scope-and-limits requirement of Rule 37. We consider first whether the certified question is dispositive and then move to the question of whether the question identifies the scope and limits of the issue presented.

a. Is the certified question dispositive?

The Defendant bears the burden of satisfying the requirements of Rule 37(b)(2)(A), which includes the requirement that the certified question be dispositive of the case. For a certified question to be dispositive, it must require a reviewing court either to affirm the judgment of conviction or to reverse and dismiss the charges. *Bishop*, 2026 WL 2329478, at *12 (citation omitted).

Here, the record reflects the parties' agreement that the certified question is dispositive of the case. Although the parties may stipulate their agreement, the trial court's agreement must be based upon its own examination of the law and the facts of the case. Regardless of the parties' agreement, the trial court must satisfy itself that the question is dispositive before certifying it to this court. *Id.* at *11. Our supreme court has encouraged "an on-the-record colloquy at the guilty plea hearing, or otherwise," at "which the parties articulate precisely how the certified question is dispositive of the case" and the trial court articulates "findings to facilitate the determination of the issue." *Id.* at *8. Unfortunately, no such colloquy occurred in this case. Indeed, the question itself was not discussed on the record at all, depriving this court of the type of thorough discussion that would aid our consideration of the issue. *See id.* at *8-9. Further, the record contains no indication that the trial court made an independent determination, either on the record or in writing, that the certified question was dispositive of the case. *See id.* at *9 ("Articulating precisely how a certified question is dispositive serves to ensure that the agreement of the parties and the trial court required by Rule 37(b)(2)(A)(iv) reflects a meaningful determination of that issue."). We emphasize, as did our supreme court, that the trial court's inquiry into whether the question is dispositive must represent a separate and considered analysis. *See id.* at *10 (stating that "in requiring the consent of the trial court, Rule 37(b)(2)(A) necessarily calls for the trial court to make its own independent determination that a certified question is dispositive").

This court, too, "must make an independent determination without regard to the proceedings below." *See id.* at *11 (citations omitted). The determination "whether a certified question is dispositive of the case is a question of law that an appellate court reviews de novo." *Id.* (citing *State v. Scott*, 619 S.W.3d 196, 203 (Tenn. 2021)). Following our de novo review in this case, we conclude that the question is not dispositive.

The biggest hurdle for the Defendant is that, to answer the certified question, this court must presume either that the trial court found that Lieutenant Fann did not act in good faith or that the trial court made no finding that Lieutenant Fann acted in good faith. The certified question contains no mention of the proceedings following the denial of the motion to suppress. The Defendant moved the trial court to reconsider its ruling, and the State responded. The parties' disagreement turned on the presence or absence of good faith, including whether the State bore the burden of establishing good faith. Although the

trial court's initial order denying the motion to suppress contained no specific finding as to the presence or absence of good faith, its later order denying the motion to reconsider did. The trial court took the significant step of amending the initial order to include a finding that Lieutenant Fann "acted in good faith by seeking and obtaining a search warrant and there was no prejudice to the Defendant." We cannot simply ignore this finding, and the certified question before us asks us to do just that. On this record, even if we agreed that a technical violation of Rule 41 requires suppression when there has been no showing of good faith, we could not reverse the Defendant's conviction because the trial court made a good faith finding. Instead, we would be required to conclude from a silent record that the trial court did not intend that its good faith finding be applied to Lieutenant Fann's failure to provide the Defendant with an exact copy of the signed search warrant when that was the only violation of Rule 41 alleged. This we cannot do. Thus, we could not do anything without remanding the case for further findings, and, in consequence, the question, on this record, cannot be dispositive.

In the trial court, the State agreed that the certified question was dispositive of the case. In *Burrell*, our supreme court left open the question whether "the 'dispositive of the case' issue is truly jurisdictional or if it is subject to waiver or forfeiture." *Burrell*, --- S.W.3d at ---, 2026 WL 2329459, at *4 n.7. Similarly, in *Bishop*, the court declined to address the defendant's suggestion that it "prohibit 'the practice of defendants entering into an agreement with the State only to have the State abandon that agreement and argue the opposite at the appellate level.'" *Bishop*, --- S.W.3d at ---, 2026 WL 2329478, at *9. Given that our supreme court has not definitively concluded that the dispositive-of-the-case requirement is jurisdictional and to facilitate any further appellate review, we also consider whether the certified question satisfied the scope-and-limits requirement of Rule 37.

b. Scope and Limits

To determine whether the certified question identifies the range and boundaries of the issue to be reviewed we examine both the question and the record. Had the parties engaged in an on-the-record colloquy regarding the certified question, the parties could have clarified whether, as the Defendant claims, the trial court intended that its good faith finding, made in response to the Defendant's motion to reconsider, be limited to the procedure used to obtain the warrant. The certified question contains a factual and procedural summary of the issue but as indicated above, conspicuously omits the proceedings following the Defendant's moving for reconsideration of the issue and the trial court's amended order, which included a good faith finding. The question then presented is: "Without any good faith by police, should the judge have suppressed the blood for violation of Rule 41 of Criminal Procedure?"

The only potential Rule 41 violation occurred when officers failed to leave with Defendant a true and exact copy of the search warrant. See Tenn. R. Crim. P. 41(d) ("The

magistrate shall prepare an original and two exact copies of each search warrant. The magistrate shall keep one copy as a part of his or her official records. The other copy shall be left with the person or persons on whom the search warrant is served. . . .”). The Defendant does not claim that the warrant was actually unsigned or that he was served with an unsigned warrant at the time his blood was drawn. Instead, he claims only that he was not given a signed copy of the warrant. He agrees that he was not prejudiced by this oversight. The State argues, as it did in its response to the motion to reconsider, that Lieutenant Fann’s BWC indicates that he showed the Defendant a signed copy of the warrant at the time of the blood draw. Contrary to the Defendant’s assertions, the record does not establish that the provision of unsigned warrants was the practice of the sheriff’s department. Instead, at most, the record indicates that officers sometimes left unsigned copies of search warrants with the person on whom the warrant was served. We do not condone this action but recognize that, in this instance at least, the officers’ negligence resulted in a technical violation of Rule 41.

The certified question asks this court to presume the absence of good faith and then determine whether the technical violation of Rule 41 required suppression of the evidence. At first blush, it would appear that the certified question identifies the issue to be resolved, but our examination of the record and the parties’ briefs reveals that the question does not actually identify the scope and limit of the issue on appeal.

Contrary to the question presented, the trial court made a finding that Lieutenant Fann acted in good faith. The Defendant argues that this finding, which was omitted from the certified question, was limited to the manner of obtaining the warrant and did not extend to the manner of serving the warrant. He claims that “bad faith” in the serving of the warrant “was not even disputed” and that the absence of a good faith finding from the initial order on the motion to suppress, rather than the finding following the motion to reconsider, “is what matters.” The State, for its part, argues that the trial court found that Lieutenant Fann acted in good faith, that the record establishes that Lieutenant Fann acted in good faith, and that, in any event, the amendment to Rule 41’s exclusionary rule relieved it of the burden of showing good faith. Thus, to properly identify the scope and limits of the question presented, we would have to (1) ignore the portion of the question asking us to presume the absence of good faith, (2) determine from a silent record whether the trial court intended its good faith finding to apply only to the procedure utilized to obtain the warrant, and (3) if we conclude that the court’s finding was so limited, then determine whether the trial court should have suppressed the evidence based on the technical violation of Rule 41, which would require that we engage in statutory interpretation. The problem with the question as certified is that it requires this court to either make presumptions unsupported by the record and answer questions not passed on in the trial court or to rewrite the question. Although the supreme court has clarified that a reviewing court must look beyond the question itself to determine whether it meets the scope-and-limits requirement,

nothing allows this court to *recraft* the certified question. *State v. Day*, 263 S.W.3d 891, 900 (Tenn. 2008) (emphasizing that “no issue beyond the scope of the certified question will be considered”) (citations omitted). Based upon our examination of the certified question statement and the entirety of the record, we conclude that the certified question does not “identif[y] the issue intended to be reserved when read in conjunction with the record.” *Burrell*, --- S.W.3d at ---, 2026 WL 2329459, at *6.

Having determined that the certified question is not dispositive of the case and that it does not properly identify the scope and limits of the issue presented, we turn then to the appropriate disposition.

II. Disposition

In *Burrell*, our supreme court reaffirmed that the failure to satisfy the requirements of Rule 37 results in dismissal of the appeal. *See id.* at *6. Similarly, in *Bishop*, the supreme court held that if we determine upon our de novo review that the certified question is not dispositive of the case, we “must vacate the judgment of the trial court and remand to give the defendant the opportunity to withdraw the guilty plea.” *Bishop*, --- S.W.3d at ---, 2026 WL 2329478, at *11. Accordingly, because we have concluded that the certified question does not identify the scope and limits of the issue presented and is not dispositive of the case, we dismiss the appeal but vacate the judgment of the trial court and remand the case to the trial court to allow the defendant an opportunity to withdraw his guilty plea.

Conclusion

Based upon the foregoing, we dismiss the appeal, vacate the judgment of the trial court, and remand the case to that court to allow the Defendant to withdraw his guilty plea.

s/ *Stacy L. Street*

STACY L. STREET, JUDGE