

# Court Advisory

Fourth Court of Appeals  
Cadena-Reeves Justice Center  
300 Dolorosa, Suite 3200  
San Antonio, Texas 78205-3037



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FOR IMMEDIATE RELEASE  
October 9, 2015

## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, October 13, 2015, beginning at 9:00 a.m., before the following panel of justices: Justice Rebeca C. Martinez, Justice Patricia O. Alvarez, and Justice Luz Elena D. Chapa.

The following cases will be presented:

*Simon Rene Garcia v. The State of Texas* – This case stems from a murder conviction pursuant to the law of parties. By all accounts, Appellant Simon Rene Garcia did not fire the weapon causing the death of Samuel Wass. Garcia was sentenced to thirty years' confinement in the Institutional Division of the Texas Department of Criminal Justice. On appeal, Simon contends the trial court erroneously applied the law of parties to the charge of murder and that the evidence is legally insufficient to support the trial court's judgment.

*Mark McCourt Lieber, Jr. v. The State of Texas* – Mark McCourt Lieber appeals his conviction for theft (\$1,500-\$20,000) from an elderly individual. The two issues that will be argued on appeal are whether (1) there is legally insufficient evidence that the value of the items stolen exceeded \$1,500; and (2) the indictment “contains enhancement allegations that improperly ‘habitualize’ a state-jail felony offense.”

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, October 14, 2015, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Sandee Bryan Marion, Justice Karen Angelini, and Justice Jason Pulliam.

The following cases will be presented:

*Alex Rene Gonzales v. The State of Texas* – In this appeal from a DWI conviction, Gonzales argues the search warrant affidavit to procure a sample of his blood was insufficient because it did not identify the witness referred to in the affidavit and because the affidavit contained a material misrepresentation.

*Harry Oliver Winkenhower v. George Allan Smith, Independent Executor of Estate of Lyda Catherine Smith* - Appellant and appellee own real property in Bandera County. Appellee sued appellant seeking a partition of the property.

Appellant filed a counterclaim seeking to enforce an oral agreement to convey the property into a family trust. Appellee filed a traditional and no-evidence motion for summary judgment on appellant's counterclaims, which the trial court granted. The trial court later signed a Decree of Partition. In this appeal, appellant asserts the trial court erred in sustaining appellee's objections to his summary judgment evidence and erred in rendering summary judgment on his counterclaims.

The oral arguments will be held in the Fourth Court's Courtroom, Cadena-Reeves Justice Center, Third Floor, 300 Dolorosa, San Antonio, Texas.