

GRANTED ISSUES

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

NO ISSUES GRANTED JUNE 14, 2017

<u>PDR NO.</u>	<u>NAME</u>	<u>COUNTY</u>	<u>OFFENSE</u>
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ALPHABETICAL LISTING WITHOUT ISSUES

<u>PDR NO.</u>	<u>NAME</u>	<u>DATE GRANTED</u>
15-1409	ASBERRY, DAMON LAVELLE	03/09/16
16-0244	ASH, ANDRE JAMMAR	09/14/16
16-0981	BALKISSOON, KEITH	01/25/17
16-0618	BECK, CLINTON DAVID	09/14/16
16-0365/66	BIEN, MICHAEL JOSEPH	09/14/16
15-0347	BOHANNAN, MICHAEL W.	11/02/16
16-0791	BOLLES, MARK EDWARD	10/05/16
16-0208	BOWMAN, RICHARD MARK	04/06/16
16-1137	BURCH, DAN DALE	01/25/17
16-0576	BURNETT, BURT LEE	09/28/16
16-1012	BUSH, LANNY MARVIN	01/1/17
17-0228	CORTEZ, JOSE LUIS	05/03/17
16-0704-06	ELROD, GORDON HEATH	10/19/16
16-0429	ESTES, RUSSELL LAMAR	09/14/16
15-1369	FEBUS, ALBERT JUNIOR	02/03/16
15-1189	FLORES, MAYRA	01/27/16
16-1299	FORD, KIMBERLY	01/25/17
16-0227	GAMINO, CESAR ALEJANDRO	05/25/16
16-1043	GIBSON, JOHNTAY	11/23/16
17-0181	GONZALEZ, JUAN ANTONIO	05/17/17
16-0197	GUTIERREZ, RENE	05/25/16
16-1118	HALLMARK, JAMIE	01/25/17
15-0511	HENRY, ALVIN PETER, JR.	10/07/15
16-1380	HERNANDEZ, GEOVANY	03/29/17
16-1389	HERNANDEZ, LUIS MIGUEL	03/08/17
16-1049	HERNANDEZ, TEODORO MIGUEL	02/01/17
16-1269	HOLDER, CHRISTOPHER JAMES	06/07/17
17-0163	HUDGINS, COBY RAY	05/24/17
16-1445	INGERSON, FRED EARL III	04/26/17
16-0578	INGRAM, ADAM WAYNE	08/24/16
16-1411	JACOBS, JOSHUA	04/12/17
17-0197	JOHNSON, DONDRE	05/03/17
16-0517	LEAX, JEROMY JOHN	09/21/16
16-0880	LEE, RONALD EDGAR, JR.	01/11/17
16-1229	LERMA, ERNESTO	01/25/17
15-0984	LONG, WENDEE	11/04/15
16-0931	MARCOPOULOS, ANDREAS	01/25/17
17-0234/5	NILES, SCOTT	06/07/17
16-0061	O'BRIEN, KELVIN LYNN	05/04/16
16-1184	OWINGS, RICHARD CHARLES	02/01/17
15-1671	PENRIGHT, CARLTON CHARLES	04/27/16
16-0712	PRICHARD, ROBERT MONTE	09/28/16
16-1180	PRINE, ALVIN WESLEY, JR.	11/09/16
15-1100	PROENZA, ABRAHAM JACOB	01/13/16
16-1300	RAMIREZ-TAMAYO, ELVIS ELVIS	01/25/17
16-1452	REYNOLDS, NATALIE AUSBIE	04/26/17
17-0021	RITCHERSON, KAITLYN LUCRETIA	05/03/17
16-0439	RODRIGUEZ, ROBERT	07/27/16
17-0001	ROSS, REBEKAH THONGINH	04/26/17
16-0323-25	SAFIAN, ANTHONY ROBERT	08/24/16
16-1037	SANCHEZ, REINALDO	01/25/17
15-0597	SHORTT, BERNARD WINFIELD	09/16/15
16-0283	VANDYKE, ROGER DALE	07/27/16
16-0228	VELASQUEZ, VICTORIA MARI	06/29/16

17-0053
15-0659
17-0174

VILLEGAS, DANIEL
WAGNER, PAUL HENRI
ZUNIGA, RICARDO

06/07/17
11/11/15
06/07/17

1. The Court of Appeals erred in ruling that the audio recording of Mayra's custodial interrogation was admissible notwithstanding the fact that the recording device used was not capable of making an accurate recording.
2. The Court of Appeals applied the wrong standard in holding that the recording equipment's failure to record twenty minutes of Mayra's custodial interrogation did not amount to an alteration that rendered the recording unreliable and untrustworthy.
3. The Court of Appeals misapplied this Court's holding in *Weatherred* because the audio tape failed to meet the requirements of section three of art. 38.22 and the trial court knew that before its ruling to allow the audio recording into evidence.

15-1369 **FEBUS, ALBERT JUNIOR** **02/03/16**
APPELLANT'S **HARRIS** **FAILURE TO REGISTER**
AS SEX OFFENDER

The evidence is insufficient to support the conviction for the felony offense of failure to comply with sex offender registration requirements since the evidence conclusively establishes a reasonable doubt as to whether appellant intentionally or knowingly failed to comply with the Texas Sex Offender Registration Program, as charged in the indictment. The Court of Appeals reliance on *Robinson v. State*, No. PD-0421-14, 2015 WL 4068109 (Tex. Crim. App. July 1, 2015) is in error since the indictment required the State to prove, beyond a reasonable doubt, that appellant intentionally or knowingly failed to provide his anticipated move date and new address.

15-1409 **ASBERRY, DAMON LAVELLE** **03/09/16**
APPELLANT'S **McLENNAN** **MURDER**

The Court of Appeals erred in holding it could not consider the trial Court record when reviewing the Court's findings in a Chapter 64 proceeding, where the record was not formally introduced into evidence at the hearing.

15-1671 **PENRIGHT, CARLTON CHARLES** **04/27/16**
APPELLANT'S **HARRIS** **SEXUAL ASSAULT**

The Court of Appeals' decision that the consolidated court cost was constitutional failed to explain how the comprehensive rehabilitation fee is a legitimate criminal justice purpose.

16-0061 **O'BRIEN, KELVIN LYNN** **05/04/16**
APPELLANT'S **HARRIS** **ENGAGING IN ORGANIZED**
CRIMINAL ACTIVITY

1. Whether the court of appeals erred in holding that unanimity is not required with respect to the enumerated offenses of theft and money laundering in an engaging in organized criminal activity by commission jury charge. (CR at 868-872; 21 RR at 117-120; 29 RR at 45-46).

16-0197 **GUTIERREZ, RENE** **05/25/16**
STATE'S **NUECES** **AGGRAVATED ASSAULT**
HARASSMENT OF PUBLIC
SERVANT

Did the court of appeals properly apply either prong of *Strickland v. Washington* when it affirmed a new trial based on defense counsel's allegedly deficient advice to proceed with an 11-member jury?

16-0208 **BOWMAN, RICHARD MARK** **04/06/16**
STATE'S **HARRIS** **DRIVING WHILE INTOXICATED**

1. Upon analyzing the applicability of the equitable doctrine of laches, this Court has established a framework for review under the totality of the circumstances. The court of appeals erred when it did not faithfully apply this framework and, instead, diminished the importance of faded memories and wholly failed to consider appellant's reason for delaying more than seven years in bringing his claim.
2. The court of appeals granted relief for ineffective assistance of counsel because the trial attorney did not investigate the specific stats regarding the detaining officer's overtime pay for impeachment purposes, which it considered a local defense custom. The court of appeals failed to give proper deference to the trial court by ignoring evidence that investigation of this specific officer was not so pervasive as to be a professional standard, failed to actually consider

whether such evidence would be admissible, and overlooked that its argument against prejudice on the State's laches claim should preclude prejudice in appellant's ineffective assistance of counsel claim.

16-0227
STATE'S

GAMINO, CESAR ALEJANDRO
TARRANT

05/25/16
AGGRAVATED ASSAULT

1. Did the court of appeals err in finding that Respondent admitted to threatening his victim, and thereby admitted to committing aggravated assault with a deadly weapon, by testifying he held a gun at his side with the barrel pointed at the ground?
2. Did the court of appeals err by relying on law not applicable to this case in order to reach its holding?
3. Did the court of appeals err when it cited a case as support of an application of law that the case actually held to be error?

16-0228
APPELLANT'S

VELASQUEZ, VICTORIA MARI
BEXAR

06/29/16
POSSESSION OF MARIJUANA

1. Did the State of Texas properly preserve error for lack of notice of a pre-trial hearing pursuant to Tex. Code Crim. Proc. Art 28.01 when in truth they objected merely to the evidentiary character of a pre-trial hearing on a Motion to Suppress?
2. Did the court of appeals err in concluding that Tex. Code Crim Proc. Art 28.01 requires the Trial Court to provide additional notice to the State of the potential for a pre-trial hearing on a properly filed and served Motion to Suppress beyond an order to appear ready for trial on a certain date?

16-0244
APPELLANT'S

ASH, ANDRE JAMMAR
FALLS

09/14/16
**POSSESSION OF CONTROLLED
SUBSTANCE W/INTENT TO
DELIVER**

The Waco Court of Appeals erred in holding, without formal charges, an accomplice witness can only be classified as a matter of fact and cannot be an accomplice as a matter of law.

16-0283
APPELLANT'S

VANDYKE, ROGER DALE
MONTGOMERY

07/27/16
**VIOLATING CIVIL
COMMITMENT
ORDER**

Did the Court of Appeals err in holding that the savings clause of S.B. 746 violated the Separation of Powers Clause of the Texas Constitution so even though Appellant's appeal was pending when the Texas Legislature amended Chapter 841 Health & Safety Code to decriminalize the conduct for which Appellant was convicted, and since the amendment's would have applied to Appellant since his conviction was not final when the amendments went into effect but for the savings clause being declared unconstitutional Appellant conviction should not have been reversed?

16-0323
16-0324
16-0325
APPELLANT'S

SAFIAN, ANTHONY ROBERT
TARRANT

08/24/16
**AGGRAVATED ASSAULT
POSSESSION OF HEROIN
EVADING ARREST**

The court of appeals erred when it affirmed the trial court's denial of the lesser-included jury charge of deadly conduct in the trial for aggravated assault on a public servant.

16-0365
16-0366
STATE'S & APPELLANT'S

BIEN, MICHAEL JOSEPH
BROWN

09/14/16
**ATTEMPTED CAPITAL MURDER
SOLICITATION TO COMMIT
CAPITAL MURDER**

1. Did the Eleventh Court of Appeals err by holding that convictions for criminal solicitation and attempted capital murder violate double jeopardy when significant factors indicate a legislative intent to punish these offenses as separate steps in the continuum of a criminal transaction?

2. Assuming a double jeopardy violation, who should determine what the most serious offense is? If this Court answers that question by deciding that a court of appeals should make that determination, what role should the parole consequences of Article 42.12 § 3g have in that analysis when the sentences, fine and restitution are all identical?

APPELLANT

1. The Court of Appeals erred when it held that parole eligibility may determine the “most serious” offense for purposes of double jeopardy.

2. What is the proper remedy for multiple punishment when the “most serious” offense cannot be determined?

16-0429 **ESTES, RUSSELL LAMAR**
STATE’S & APPELLANT’S **TARRANT**

09/14/16
SEXUAL ASSAULT
INDECENCY W/CHILD

STATE

Did the Court of Appeals properly conclude that there was no rational basis for the appellant receiving disparate treatment?

APPELLANT

1. Should Appellant's equal protection claim be reviewed under strict scrutiny?

2. Was it error for the Court of Appeals to affirm Appellant's sexual assault convictions as second-degree felonies and remand those charges to the trial court for a new trial on punishment, rather than order the prosecution of Appellant dismissed or remand the charges to the trial court to enter an order dismissing the prosecution?

16-0439 **RODRIGUEZ, ROBERT**
STATE’S **GUADALUPE**

07/27/16
AGGRAVATED ASSAULT

Does the submission of an instruction on transferred intent entitle a defendant to an instruction on mistake of fact even if the greater offense does not have any additional culpable mental state and there is no evidence that the defendant harbored a mistaken belief?

16-0517 **LEAX, JEROMY JOHN**
APPELLANT’S **MONTGOMERY**

09/21/16
ONLINE SOLICITATION OF
A MINOR

Whether Section 33.031 of the Texas Penal Code is a content-based restriction.

16-0576 **BURNETT, BURT LEE**
STATE’S **TAYLOR**

09/28/16
DWI, UNLAWFULLY
CARRYING A WEAPON

Did the court of appeals misapply this Court's decision in *Ouellette v. State* in determining that the inclusion of the full statutory definition of intoxication in a jury charge constitutes harmful error?

16-0578 **INGRAM, ADAM WAYNE**
APPELLANT’S **BEXAR**

08/24/16
ONLINE SOLICITATION OF A
MINOR

Whether the Fourth Court of Appeals erred by failing to recognize and apply the analysis of the United States Supreme Court and this Court's past rulings under the First, Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution, the Dormant Commerce Clause, and Article 1 § 19 of the Texas Constitution regarding the unconstitutionality of Texas Penal Code Section 33.021.

16-0618 **BECK, CLINTON DAVID**
APPELLANT’S **COMAL**

09/14/16
IMPROPER RELATIONSHIP
BETWEEN EDUCATOR AND
STUDENT

The Court of Appeals held that Mr. Beck had forfeited his right to challenge on habeas review the constitutionality of Texas Penal Code Section 21.12(a)(3), the statute of conviction, because he did not raise the issue at trial or on appeal.

In dicta, the lower court implied that if the issue had been preserved, the court would have found the statute constitutional.

16-0704 ELROD, GORDON HEATH 10/19/16
16-0705
16-0706
STATE'S DALLAS FRAUDULENT USE OR
POSSESSION OF IDENTIFYING
INFORMATION; TAMPERING
W/GOVERNMENT RECORD

After an informant details an ongoing criminal enterprise and leads the police to her potential co-conspirators, can a magistrate find that her tip establishes a "fair probability" that evidence of the crime will be found where she suggests?

16-0712 PRICHARD, ROBERT MONTE 09/28/16
APPELLANT'S DALLAS CRUELTY TO
NONLIVESTOCK ANIMAL

Is a "deadly weapon" finding appropriate when the only thing injured or killed is a pit bull rather than a human being?

16-0791 BOLLES, MARK EDWARD 10/05/16
STATE'S NUECES POSSESSION OF CHILD
PORNOGRAPHY

1. The Thirteenth Court of Appeals erred in concluding that the image of a toddler with her genitals exposed, without any discernable reason for the exposure other than to arouse or offend the viewer, did not amount to a "lewd exhibition of the genitals" for purposes of the offense of Possession of Child Pornography. (Thirteenth Court of Appeals Opinion. pp. 14-15)

2. Does Rosie's toddler status in 1976 when Robert Mapplethorpe photographed her revealing her genitals control the "child younger than 18. . . when the image was made" element of possession of child pornography when, long after Rosie reached adulthood, Appellant took a "cropped" photo of the original depicting only her genitalia?

16-0880 LEE, RONALD EDGAR, JR. 01/11/17
APPELLANT'S TAYLOR CONTINUOUS SEXUAL
ABUSE OF CHILD

The 11th Court of Appeals panel erred by not addressing Appellant's argument in Appellant's Issue Number Two that evidence of an act committed in another state which did not violate a Texas Penal law at the time of its commission, did not provide sufficient evidence to fulfil the statutory requirement that the state prove Appellant violated certain enumerated Texas Penal Laws two or more times during a specified period of time. A plain reading of the statute, Texas Penal Code §21.02, requires that each act must be proven to have been a violation of one of the penal laws enumerated in §21.02 at the time of its occurrence for that act to be used as one of the two or more acts required to prove Continuous Sexual Abuse. By omitting analysis of this issue, which was properly raised in Appellant's brief, the Appellate Court committed error.

16-0931 MARCOPOULOS, ANDREAS 01/25/17
APPELLANT'S HARRIS POSSESSION OF
CONTROLLED
SUBSTANCE

Whether there was probable cause to search Appellant's vehicle under the automobile exception to the warrant requirement when he entered a bar where narcotic activity was suspected, left three to five minutes later, and made "furtive glances" when police surrounded him to make a traffic stop?

16-0981 BALKISSOON, KEITH 01/25/17
APPELLANT'S WILLIAMSON DRIVING WHILE
INTOXICATED

2. Did the court of appeals err in finding exigent circumstances existed?
3. Can law enforcement create their own exigent circumstances?

16-1012 **BUSH, LANNY MARVIN** **01/11/17**
STATE'S **COLEMAN** **CAPITAL MURDER**

1. In reviewing sufficiency of the evidence, did the court of appeals err by:
 - failing to consider any reasonable inferences that could be drawn from the evidence,
 - separating evidence about the crime scene from evidence about the relationship between Appellant and the victim as a whole,
 - speculating on evidence that was not offered by the State, and
 - speculating on a hypothesis that was inconsistent with the defendant's guilt,during its review of the sufficiency of the evidence to support a capital allegation that Appellant committed murder while in the course of kidnapping or attempting to kidnap the victim?
2. In considering the "grey area" of criminal attempt law between acts that are simply mere preparation to commit an offense and acts that tend to effect the commission of an offense, may a reviewing court reject a jury's verdict during a sufficiency of the evidence review simply because the reviewing court would have drawn the "imaginary line" in a different location than the jury?

16-1037 **SANCHEZ, REINALDO** **01/25/17**
STATE'S **HIDALGO** **POSSESSION OF**
CONTROLLED
SUBSTANCE

The Thirteenth Court of Appeals erred in its application of *Arizona v. Gant*, in that it did not apply the totality of the circumstances when determining the validity of the search incident to arrest.

16-1043 **GIBSON, JOHNTAY** **11/23/16**
APPELLANT'S **HARRIS** **CAPITAL MURDER**

When the basis for trial counsel's objection to the admission of the appellant's videotaped custodial statement was apparent at trial, the reviewing court should not avoid addressing that apparent issue by holding the appellant's argument on appeal does not comport with counsel's trial objection merely because the apparent issue is more specifically articulated on appeal.

16-1049 **HERNANDEZ, TEODORO MIGUEL** **02/01/17**
STATE'S **HAYS** **SEXUAL ASSAULT;**
AGGRAVATED ASSAULT

1. Is the evidence sufficient to prove aggravated assault with a deadly weapon when the State proves the offense alleged in the indictment, but there is a variance between the pleading and proof as to the specific deadly weapon?
2. If, in the course of a single criminal episode, Appellant assaults the victim, immediately leaves the room to retrieve a deadly weapon and then continues assaultive conduct, does a Court of Appeals err in finding the evidence insufficient to prove that the deadly weapon was used "during the commission" of the assault?

16-1118 **HALLMARK, JAMIE** **01/25/17**
STATE'S **HOUSTON** **HINDERING APPREHENSION**
OR PROSECUTION

1. Appellant failed to preserve any of the complaints which underlie the court of appeals' opinion.
2. Did the court of appeals misinterpret the record and thus misapply *Moore v. State*, 295 S.W.3d 329, 332 (Tex. Crim. App. 2009), which held that judges may not play any role in plea negotiations?
3. Should *Moore* be reconsidered and appellant be estopped from complaining in this case?

16-1137 **BURCH, DAN DALE** **01/25/17**
STATE'S **MONTGOMERY** **SEXUAL ASSAULT**

1. The Ninth Court of Appeals misapplied the standard set forth in *Riley v. State*, 378 S.W.3d 453 (Tex. Crim. App. 2012), when it ignored the trial court's ability to disbelieve the affidavits provided in support of the appellant's motion for new trial and concluded the appellant established he would have elected for the jury to assess punishment if he had received correct advice regarding his ineligibility for community supervision from the trial court.
2. The Ninth Court of Appeals misapplied the *Strickland v. Washington*, 466 U.S. 668 (1984), standard for evaluating ineffective assistance of counsel claims when the court burdened the State to disprove prejudice and relied on

speculation to conclude that the outcome of the trial would have been different if the appellant had received correct advice.

16-1180 **PRINE, ALVIN WESLEY, JR.** **11/09/16**
STATE'S **LIBERTY** **SEXUAL ASSAULT**

1. When the record is silent as to defense counsel's reasons for calling witnesses in support of jury-ordered probation, has the presumption of reasonable strategy been rebutted?
2. If the reasonableness presumption was rebutted, did defense counsel render ineffective assistance in calling witnesses who presented favorable evidence but also opened the door for damaging evidence?

16-1184 **OWINGS, RICHARD CHARLES** **02/01/17**
STATE'S **HARRIS** **AGGRAVATED SEXUAL
ASSAULT**

The trial court's failure to require an election by the State should not have resulted in a reversal when the testimony regarding multiple incidents of abuse was admissible, the descriptions of each incident were essentially the same, the jury was charged on only one offense, and appellant's defense was the same across the board.

16-1229 **LERMA, ERNESTO** **01/25/17**
STATE'S **NUECES** **POSSESSION OF
CONTROLLED
SUBSTANCE**

When the cocaine was seized after Appellant attempted to flee a reasonably timed traffic-stop-detention, does an alleged unlawful pre-arrest frisk and prolonged detention render the cocaine inadmissible?

16-1269 **HOLDER, CHRISTOPHER JAMES** **06/07/17**
APPELLANT'S **COLLIN** **CAPITAL MURDER**

The Court of Appeals erred in holding the State's petition to obtain the Appellant's cell phone records set forth the "specific and articulable facts" required by federal law under 18 U.S.C. section 2703(d).

16-1299 **FORD, KIMBERLY** **01/25/17**
STATE'S **NUECES** **POSSESSION OF
CONTROLLED
SUBSTANCE**

1. Whether a shopper's concealing merchandise inside her purse in a shopping cart gives rise to probable cause to arrest her for theft?
2. Whether a Suspect's innocent but unverifiable explanation for otherwise highly suspicious conduct negates probable cause? In particular, whether a shopper's claim that she intended to pay for items concealed in her purse while shopping negates probable cause to arrest her for theft?

16-1300 **RAMIREZ-TAMAYO, ELVIS ELVIS** **01/25/17**
STATE'S **POTTER** **POSSESSION OF
CONTROLLED
SUBSTANCE**

1. The court of appeals ignored the law governing the review of suppression rulings by, inter alia, considering the circumstances in isolation, focusing on their innocent nature, and generally failing to defer to the fact-finder.
2. Under what circumstances is a reviewing court permitted to ignore a credible officer's inferences and deductions based on his training and experience?

16-1380 **HERNANDEZ, GEOVANY** **03/29/17**
STATE'S **GILLESPIE** **TAMPERING W/EVIDENCE**

1. Does the improved shoulder of a road include the "fog line?"

1. The Eighth Court erred in holding that the trial court did not abuse its discretion in requiring, and placing the burden upon, the State to establish that jail-recorded telephone conversations Villegas seeks to exclude pretrial are: (1) relevant to an elemental or evidentiary fact of consequence to be litigated at trial, (2) not unfairly prejudicial under rule 403, and (3) not inadmissible hearsay, where such determinations necessarily require the ever-changing context of a trial and the party claiming the protection of exclusionary rules of evidence bears the burden of proving his case in a pretrial motion.

2. The Eighth Court misapplied the standard for reviewing relevance determinations where in its analysis for determining whether the trial court abused its discretion in excluding relevant evidence looked to whether, based on the trial court's personal evaluation of competing or available inferences, it is reasonable to reject the State's proffered inferences, when the proper standard looks to whether an appellate court can state with confidence that by no reasonable perception of common experience could it be determined that the proffered inference is one that is reasonably available from the evidence.

17-0163
STATE'S

HUDGINS, COBY RAY
GREGG

05/24/17
MURDER

Is it error to declare trial counsel ineffective for failing to investigate and present evidence when, at the motion for new trial hearing, Appellant presented no evidence demonstrating that the investigation and additional evidence would have been beneficial?

17-0174
STATE'S

ZUNIGA, RICARDO
EL PASO

06/07/17
CAPITAL MURDER
ENGAGING IN ORGANIZED
CRIMINAL ACTIVITY

In holding the evidence legally insufficient to support the defendant's convictions for engaging in organized criminal activity, specifically, that the State failed to prove that the defendant committed the predicate murders as a member of a criminal street gang, the Court of Appeals improperly required proof of the motive of the gang itself. Even after recognizing that the evidence showed that the defendant and his fellow gang members acted in concert in killing the victims, the Court of Appeals nevertheless improperly held that absent proof of why the gang attacked and killed the victims, the evidence was insufficient to allow the jury to rationally conclude that the killings were a gang activity and that the defendant participated in the killings as a member of the gang.

17-0181
STATE'S

GONZALEZ, JUAN ANTONIO
EL PASO

05/17/17
MURDER

1. The Eighth Court erred in holding that evidence that Gonzalez had consumed ecstasy on the day of the murder was irrelevant to his state of mind and self-defense claim because the State failed to introduce evidence of the drug's half-life or the length of its effects, and that, despite any bearing it had on the central issue of self-defense or the relatively innocuous nature of the intoxication evidence, when compared to the severity of the charged offense (capital murder), its probative value was substantially outweighed by the danger of unfair prejudice.

2. The Eighth Court erred in holding that any erroneous admission of Gonzalez' possession and consumption of ecstasy the day of the murder constituted harmful error where the complained-of evidence was developed quickly through a single witness, the State did not allude to the evidence during closing arguments, and Gonzalez' defensive evidence was internally inconsistent and controverted by the State's evidence. In disregarding the weight of these factors, the Eighth Court erred in its application of the appropriate harm standard.

17-0197
STATE'S

JOHNSON, DONDRE
TARRANT

05/03/17
THEFT

1. In determining whether the evidence is legally sufficient to support the jury's verdicts, the court of appeals failed to measure the evidence, as the court interpreted the evidence, against a hypothetically correct jury charge that included, as the dissent pointed out, a full parties charge and a correct description of the financial instrument stolen, as required under *Garza Vega v. State*, 267 S.W.3d 912, 915-26 (Tex. Crim. App. 2008).

2. In determining whether the evidence is legally sufficient to support the jury's verdicts, the court of appeals erred in failing to view the evidence in the light most favorable to the jury's verdicts, thereby substituting its resolution of fact issues for that of the jury's. See *Adames v. State*, 353 S.W.3d 854, 861 (Tex. Crim. App. 2011); see also *Jackson v. Virginia*, 433 U.S. 307, 319 n.12 (1979).

17-0228

CORTEZ, JOSE LUIS

05/03/17

STATE'S

POTTER

**POSSESSION OF
CONTROLLED
SUBSTANCE**

Does the improved shoulder of a highway begin at the inside edge of the "fog line," the outside edge, or somewhere in between?

17-0234

NILES, SCOTT

06/07/17

17-0235

COURT'S OWN MOTION

HARRIS

TERRORISTIC THREAT

Whether the Court of Appeals erred in reforming Appellant's judgment to reflect conviction for a Class B misdemeanor.