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Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, May 19, 2020, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Sandee Bryan Marion, Justice Patricia O. Alvarez, and Justice Liza A. Rodriguez.

The following appeal will be presented:

Jose Trinidad Gonzalez v. The State of Texas – This case centers on a wife’s search of her husband’s iPad without his knowledge. The iPad revealed sexually explicit videos of minors, which led to his arrest and conviction.

Gonzalez sometimes shared his iPad with family members, and his wife knew the passcode. Gonzalez did not know that his wife used the passcode to look through the iPad on this occasion and that she took the iPad to the police station after discovering the iPad had videos of her daughter. Officers arrested and interviewed Gonzalez, and he made incriminating statements. The case detective later obtained a warrant to search the iPad.

Appellant Jose Gonzalez was charged with ten counts of sexual offenses against his stepdaughter, and one count of failing to update his address with law enforcement as a registered sex offender. A jury convicted Gonzalez of all counts.

Gonzalez appeals his conviction based on three issues: 1) video evidence was obtained by unlawful search and seizure via his wife’s improper third-party consent, 2) his admission was obtained as a result of the illegal search and seizure, and 3) the jury heard inadmissible and prejudicial testimony regarding other video evidence unrelated to the charges in this case.

The State argues that obtaining evidence from Gonzalez’s wife was constitutional, that any possible taint was attenuated, and that the testimony at issue did not amount to incurable prejudice.

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, May 19, 2020, beginning at 10:30 a.m., before the following panel of justices: Chief Justice Sandee Bryan Marion, Justice Patricia O. Alvarez, and Justice Liza A. Rodriguez.

The following appeal will be presented:

Lee B. Wheeler, Trustee of the L&P Children’s Trust and Nancy Wheeler Plumlee v. San Miguel Electric Cooperative, Inc. - In the underling case, the

parties' dispute centers on whether a 1954 coal and lignite lease on approximately 2,210 acres in McMullen County has expired or is still in effect.

Through devises and assignments, the Wheelers own interests in the surface and mineral estates. They argue the coal and lignite lease terminated before they granted an easement to install a pipeline across the property. The Wheelers sought a declaratory judgment that the lease has expired.

San Miguel Electric Cooperative, Inc., a successor-in-interest to the original lessee, answered and counterclaimed for breach of the lease. San Miguel argued the pipeline interferes with its right to strip mine the coal and lignite—a breach of the lease.

The trial court construed a partition deed that covered the acreage at issue, granted summary judgment for San Miguel, and granted a directed verdict against the Wheelers' causes of action. The jury awarded damages to San Miguel for the Wheelers' breach of the lease.

On appeal, the Wheelers argue the partition deed is ambiguous, the surface destruction test applies, and summary judgment was improper. They also contend the trial court erred in (1) striking their causes of action based on a Rule 248 motion, (2) striking two jurors for cause, (3) granting the directed verdict, and (4) awarding damages for breach of the lease.

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, May 20, 2020, beginning at 9:00 a.m., before the following panel of justices: Justice Rebeca C. Martinez, Justice Irene Rios, and Justice Beth Watkins.

The following appeal will be presented:

DCP Sand Hills Pipeline, LLC v. San Miguel Electric Cooperative, Inc. - Appellee San Miguel Electric Cooperative, Inc. sued appellant DCP Sand Hills Pipeline, LLC seeking a declaration that: (1) DCP's pipeline easement was invalid, void, or voidable; and (2) its strip mining rights under a coal, lignite, and mineral lease were superior to DCP's pipeline easement rights. San Miguel also sought a permanent injunction requiring DCP to relocate part of its pipeline. In response, DCP asserted San Miguel's lease had expired and filed a condemnation counterclaim seeking to condemn the land covered by its easement. After considering cross motions for summary judgment, the trial court granted judgment in favor of San Miguel dismissing DCP's condemnation counterclaim as barred by the paramount importance doctrine and declaring San Miguel's strip mining rights superior to DCP's pipeline easement rights. The trial court also granted San Miguel's permanent injunction, ordered DCP to move its pipeline, and awarded San Miguel attorney's fees under the Uniform Declaratory Judgment Act (UDJA). On appeal, DCP argues the court erred because its condemnation counterclaim is not barred by the paramount importance doctrine and the court improperly awarded attorney's fees to San Miguel under the UDJA.

The oral arguments will be remotely held and will be livestreamed through the following link: <https://www.youtube.com/channel/UCiaWJQ7eW5OQIALdyLN6s3A>.

