

# 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  
November 7, 2013

## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, November 12, 2013, beginning at 9:00 a.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Marialyn Barnard, and Justice Luz Elena D. Chapa.

The following case will be presented:

*In the Interest of E.D., et al., Children* - This is an appeal from the trial court's termination of appellant's parental rights to his four children. On appeal, appellant challenges only the legal and factual sufficiency of the evidence in support of the trial court's findings.

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, November 13, 2013, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The following cases will be presented:

*Stephen Jonathon Vogt v. The State of Texas* – This appeal stems from Stephen Vogt's capital murder conviction. Vogt was convicted by a jury for the death of Mario Raygoza and assessed punishment at life in prison without the possibility of parole. On appeal, Vogt argues the following: (1) the trial court erred in the application paragraph of the jury charge by failing to accurately apply the law of the parties to the facts of the case; (2) the State's closing argument violated Vogt's right to a fair trial and due process of law; and (3) the record fails to establish Vogt's ability to pay attorney's fees as required by the judgment.

*In the Estate of Ramiro Aguilar, Jr., Deceased* – This appeal arises out of a probate proceeding. The appeal raises issues concerning transfers under section 5B of the Texas Probate Code and the imposition of sanctions.

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The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, November 13, 2013, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Marialyn Barnard, and Justice Patricia O. Alvarez.

The following case will be presented:

*Schuhardt Consulting Profit Sharing Plan, Allan P. Bloxsom, III, Thomas O. Stoner, Stormy Night, LLC and TOS Ranch, LLC v. Double Knobs Mountain Ranch, Inc. and Carlton E. Thompson* - This appeal arises from a lawsuit in which the appellants alleged adverse possession of an easement expressly granted by their predecessor-in-interest to the appellees' predecessor-in-interest. After a bench trial, the trial court entered judgment in favor of the appellees, concluding the easement was not terminated by adverse possession and that the easement provided the only legal access to the property in question. On appeal, the appellants contend: (1) the evidence established their claim of adverse possession as a matter of law; (2) they were not estopped to deny the existence of the easement based on recitals in deeds recognizing the existence of the easement; (3) the express easement violated the statute of frauds because it could not be located with reasonable certainty; (4) the appellees waived their claim of easement by necessity; and (5) the award of attorney's fees must be reversed and remanded if the trial court's judgment is reversed on appeal.

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