

# Press Release

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 20, 2012

## Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, November 27, 2012, beginning at 9:00 a.m., before the following panel of justices: Justice Karen Angelini, Justice Steven C. Hilbig, and Justice Marialyn Barnard.

The following case will be presented:

*In the Interest of S.O.L.* – This is an appeal of a final order in a Suit Affecting the Parent-Child Relationship which the trial court signed based upon a mediated settlement agreement signed by all the parties. The paternal grandmother of the child appeals contending the mediated settlement agreement provided only for temporary not final relief or was ambiguous in that regard and the trial court’s order denied her right to a jury trial on the issues.

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, November 27, 2012, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Rebecca Simmons.

The following cases will be presented:

*In the Interest of N.T.P. and L.C.P., Children* – This is an appeal from an order downwardly modifying appellee’s child support obligations and an order clarifying a Domestic Relations Order (Military Retirement).

*Cheyenne Estrada v. The State of Texas* – Estrada appeals her conviction for possession of marijuana. Estrada challenges the trial court’s denial of her motion to suppress a statement in which she claimed ownership of the marijuana. Estrada contends her statement was admitted in violation of the Fifth and Fourteenth Amendments of the United States Constitution, Article 1 of the Texas Constitution, and Article 38.22 § 3(a)(2) of the Texas Code of Criminal Procedure because she was in custody and was not warned of her rights before being asked who owned the marijuana. She also complains the statement was erroneously

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admitted in violation of Article 38.22 § 3(a)(1) of the Texas Code of Criminal Procedure because it was not electronically recorded.

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, November 28, 2012, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Rebecca Simmons.

The following cases will be presented:

*Michael Scott Alcaraz v. The State of Texas* – Appellant appeals his conviction for felony driving while intoxicated (third offense). Appellant’s sole issue on appeal is that the trial court violated his rights under the Confrontation Clause of the Sixth Amendment of the United States Constitution by overruling his objection to the testimony of a State’s witness.

*Lavelle Simpson v. The State of Texas* – Lavelle Simpson waived his right to a jury trial, and the trial judge found him guilty of the offense of felon in possession of a firearm and assessed his punishment at ten years confinement and a \$5000 fine. On appeal, Simpson presents three points of error. First, Simpson challenges whether the evidence is legally sufficient to show: (1) he exercised care, custody, control, or management over the firearm; (2) he voluntarily possessed the firearm; and (3) he possessed the requisite culpable mental state. Next, Simpson asserts he was not permitted to present evidence or a defense in violation of his rights to due process of law and a fair trial. Finally, Simpson complains the trial court erred in failing to set aside the indictment because he was denied his constitutional right to a speedy trial

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, November 28, 2012, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Sandee Bryan Marion, and Justice Rebecca Simmons.

The following case will be presented:

*Kristine Diane Bethke, Individually and as Representative of the Estate of Ian James Bethke and Jackie Sides v. Isabel Munoz, Jr. and Peanut Bar Cattle Co.* – The issue presented in this case is whether the driver of a tractor-trailer (and his employer) who was involved in an accident can be held liable for a

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second accident that occurred almost four hours after the first accident and a little over 2 miles from the location of the first accident. The second accident occurred at the end of the line of traffic that was backed up as a result of the first accident.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, November 29, 2012, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Karen Angelini, and Justice Phylis Speedlin.

The following case will be presented:

*Elizabeth Ames Jones v. Jeff Wentworth* – This appeal involves the Texas Citizens Participation Act, a new statute that provides for expedited dismissal of a suit related to a party's exercise of the right of free speech. The appellant, Elizabeth Ames Jones, was sued for defamation by the appellee, Jeff Wentworth. Jones and Wentworth were political opponents seeking the Republican primary nomination for Texas State Senate District 25. At the heart of the defamation suit was a radio ad aired by Jones during the campaign. Jones moved for dismissal of the defamation suit, but the trial court denied the motion. On appeal, Jones argues the defamation suit should have been dismissed under the Texas Citizens Participation Act because Wentworth failed to meet his burden to establish by clear and specific evidence a prima facie case for each of the essential elements of a defamation claim.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, November 29, 2012, beginning at 1:30 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Karen Angelini, and Justice Marialyn Barnard.

The following case will be presented:

*City of Rio Grande City, Texas v. Remedios Herrera* – This is an accelerated appeal arising out of a trial court's order denying the City's plea to the jurisdiction. In this appeal, the City contends the trial court erred in denying its plea to the jurisdiction because the City is immune from suit under the doctrine of governmental immunity.

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