

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 30, 2012

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, December 6, 2012, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Karen Angelini, and Justice Marialyn Barnard.

The following case will be presented:

Robert Valdez, Individually and as Administrator of the Estate of Pierre V. Bernard, Deceased, and Fidelity and Casualty Company of New York v. David Hollenbeck, Individually and as the Successor Administrator of the Estate of Pierre V. Bernard, Deceased, et al. - The appellants argue that the trial court erred in granting appellees' an equitable bill of review and, after a bench trial, in granting judgment against appellants. Appellants bring issues relating to whether appellees' petition for equitable bill of review was barred by limitations; whether appellees met all the elements entitling them to an equitable bill of review; and whether, on the merits, appellees proved proximate causation.

The Fourth Court of Appeals will hear oral arguments in two appeals on Thursday, December 6, 2012, beginning at 10:00 a.m., before the following panel of justices: Justice Karen Angelini, Justice Steven C. Hilbig, and Justice Marialyn Barnard.

The following cases will be presented:

David Fino v. The State of Texas – David Fino was convicted of one count of Continuing Sexual Abuse, five counts of Aggravated Sexual Assault, and two counts of Indecency with a Child. In his appeal, he challenges several evidentiary rulings made by the trial judge including whether the trial court improperly admitted the testimony of several outcry witnesses and whether certain hearsay statements violated his constitutional right to confront the witnesses. Fino also asserts his trial counsel rendered ineffective assistance.

Kiona F. Boutang v. The State of Texas – This appeal arises out of appellant's conviction for driving under the influence. In this appeal, the

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appellant contends: (1) the trial court violated her rights under the Confrontation Clauses of the United States and Texas Constitutions by permitting the admission of certain testimony and evidence; (2) the trial court erred in allowing the State to commit the venire to always consider the results of a breathalyzer test; and (3) the trial court erred in failing to provide a jury instruction on probable cause to arrest appellant.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, December 6, 2012, beginning at 2:00 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Steven C. Hilbig.

The following case will be presented:

Guadalupe Blanco River Authority v. Sandra Leigh Schneider - In the underlying lawsuit, Sandra L. Schneider contends she sustained physical injuries as a result of a motor vehicle accident in which her vehicle was hit by a vehicle driven by David Kenda. On appeal, the parties do not dispute that (1) Kenda's vehicle collided with Schneider's vehicle because Kenda failed to yield the right of way, (2) Kenda was driving his vehicle while in the course and scope of his employment with the Guadalupe Blanco River Authority ("GBRA"), and (3) GBRA is a governmental entity. Schneider sued both GBRA and Kenda on claims of negligence. Schneider later voluntarily dismissed Kenda as a defendant pursuant to an agreed order with GBRA. GBRA filed a plea to the jurisdiction in which it asserted its governmental immunity was not waived because Schneider did not provide it with proper notice of her tort claim. Following the denial of the plea, GBRA filed this accelerated appeal.

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