

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
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Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Tuesday, January 30, 2018, beginning at 1:30 p.m., before the following panel of justices: Justice Patricia O. Alvarez, Justice Luz Elena D. Chapa, and Justice Irene Rios.

The following cases will be presented:

Michelle R. Pauli v. Michael D. Hayes and Teresa C. Hayes – This case arises out of the appellants’ construction of a sports court in their back yard, close to the property line abutting the appellees’ back yard. A jury found appellants liable for nuisance, trespass, and negligence and awarded damages. In addition, the trial court granted permanent injunctive relief, requiring the parties to install fences, requiring appellants to remove planters, shield lights, and install banners on the sports court, and placing restrictions on the time appellants may use the sports court. The judgment states the injunctive relief is binding against appellants’ successors and assigns and inures to the benefit of appellees’ successors and assigns.

The issues on appeal include (1) the sufficiency of the evidence to support the nuisance and negligence liability and damage findings; (2) whether the award of \$5,000 as nominal damages for trespass was error because the amount is not “nominal” as a matter of law; (3) whether appellants should have been awarded the attorney’s fees found by the jury because appellants prevailed on appellees’ Water Code claim; (4) whether the court abused its discretion in awarding the injunctive relief because the pleadings and evidence do not support the relief awarded, the relief amounts to a double recovery, the injunction violates Rule 683, and the relief impermissibly restricts appellants’ lawful use of their property and impermissibly inures to the benefit of future owners of appellees’ property; and (5) whether appellants preserved their complaints for appeal.

Lars Erik Itzo v. The State of Texas - Lars Erik Itzo was indicted for the offenses of felony murder and manslaughter for the shooting death of Debora Anne Kelly. A jury acquitted Itzo of the offense of felony murder, but found him guilty of the offense of manslaughter. Based upon the jury’s recommendation, the trial court sentenced Itzo to fifteen years’ imprisonment. The issues on appeal are

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whether (1) the trial court erred by identifying the victim by name in the instructions regarding justified defense of self, third persons, and property; (2) the trial court erred by refusing to include an instruction on the lesser included offense of negligent homicide; (3) trial counsel was ineffective for failing to timely and specifically object to charge error and by failing to request a curative instruction after the jury sent out a note stating the instructions implied Itzo recognized the victim; (4) the trial court erred by admitting over objection speculative opinion testimony from lay witnesses regarding Appellant faking remorse; and (5) Itzo suffered egregious harm from trial court comments and conduct, including stepping out of the role of arbiter to conduct examination of a witness in front of the jury and refusing to allow defense counsel to clarify objections to the charge.

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, February 1, 2018, beginning at 9:00 a.m., before the following panel of justices: Justice Karen Angelini, Justice Patricia O. Alvarez, and Justice Irene Rios.

The following case will be presented:

University of Incarnate Word and Christopher Carter v. Valerie Redus, Individually, and Robert M. Redus, Individually and as Administrator of the Estate of Robert Cameron Redus – In this appeal, this Court is being asked to determine whether the University of Incarnate Word, a private university, enjoys immunity from suit when sued for actions related to its law-enforcement function. In considering this issue, we must look to the common-law doctrine of sovereign immunity and the “nature and purposes” of sovereign immunity.

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