

## **GRANTED ISSUES**

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

**NO ISSUES GRANTED OCTOBER 7, 2020**

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## ALPHABETICAL LISTING WITHOUT ISSUES

<u>PDR NO.</u>	<u>NAME</u>	<u>DATE GRANTED</u>
20-0166	ALCOSER, DANNY WAYNE	05/06/20
19-0203	ALLEN, MATTHEW JOSEPH	06/26/19
20-0279	ANDERSON, ANDREW	09/16/20
19-1072	BARNES, DANIEL THOMAS	12/11/19
18-1362	BARRETT, DEWEY DEWAYNE	10/09/19
19-1123	BARTON, CHARLES	11/20/19
19-0804	BECERRA, JOE LUIS	11/20/19
18-1383	BELL, KENDALL	03/27/19
19-1225	BELL, ORLANDO	03/11/20
20-0309	BIGGERS, DARREN LAMONT	09/16/20
19-1292	BROWN, FREDERICK L.	03/11/20
20-0034	BROWN, SULIA LAWRENCE	04/01/20
19-0575	CARTER, ANTHONY	09/11/19
19-1279	CASTILLO-RAMIREZ, RAMIRO	03/11/20
19-0424	CHAMBERS, LARRY THOMAS, JR.	10/02/19
20-0624	CURLEE, DALLAS SHANE	09/30/20
19-0955	DAY, JONATHAN WILLIAM	11/06/19
20-0556	DO, PHI VAN	09/30/20
19-0856/57	DULIN, BRYANT EDWARD	01/15/20
18-0831	DUNHAM, MARC WAKEFIELD	12/05/18
20-0325	EDWARD, DUKE	09/16/20
20-0064	FLORES, JUAN CARLOS	06/24/20
18-1090/91	FOREMAN, NATHAN RAY	02/13/19
19-1233	GEORGE, ANTHONY RASHAD	02/26/20
19-0572	GONZALEZ, VICTOR ORTIZ	08/21/19
19-0635	HAGGARD, JAMES RAY	09/25/19
20-0478	HALLMAN, ROBERT F.	09/30/20
19-0636	HAMMACK, MICHAEL ANTHONY	11/06/19
19-0799	HARDIN, SHEILA JO	10/02/19
19-0985	HARRELL, ROBERT EARL, JR.	12/11/19
19-0853	HERRON, ROBERT	10/09/19
19-1101	HERVEY, WILLIE MAURICE, JR.	03/11/20
16-1269	HOLDER, CHRISTOPHER JAMES	06/07/17 & 10/23/19
18-1339	HOLOMAN, HAROLD WAYNE	03/20/19
20-0561	JOHNSON, JACOB MATTHEW	09/16/20
18-0552	JONES, JORDAN BARTLETT	07/25/18
20-0003	KUYKENDALL, KYLE DEAN	03/11/20
19-1124	LANG, TERRI REGINA	03/11/20
19-0075	LERMA, REYNALDO	12/11/19
18-0894	LOCH, VITH	12/05/18
19-0956	LOPEZ, ANTONIO	01/29/20
18-1291	LOPEZ, MARTIN RIVERA	03/20/19
19-1319	LOZANO, CARLOS	05/06/20
19-0244/45	LUJAN, ERLINDA	06/05/19
19-0563	MARTIN, CASEY ALLEN	10/09/19
19-1215	MARTINEZ, JESSE ADRIAN	04/01/20
19-0810	MATA, RICARDO	09/18/19
19-0984	McGUIRE, SEAN MICHAEL	12/11/19
20-0243	MELGAR, SANDRA JEAN	08/19/20
18-1340	MIRANDA, CHRISTOPHER	04/10/19
19-1079	MOLINA, WILBER ULISES	05/06/20
19-0202	MONTELONGO, ALBERTO	05/08/19
19-1049	NAJAR, ZAID ADNAN	01/29/20
19-0963	NICHOLSON, HARRY DONALD, JR.	12/18/19
19-0478	NUNCIO, LEONARDO	08/21/19
19-1061	ORTIZ, ORLANDO	11/06/19

20-0310	PERKINS, MICKEY RAY	08/19/20
20-0287	PHAM, HAPPY TRAN	09/16/20
19-0645	PHILMON, MANYIEL	09/25/19
19-1053	PUGH, ALLEN BRAY	02/05/20
20-0289	RANSIER, CHARLES ROBERT	08/19/20
19-1096	RION, CHRISTOPHER	01/15/20
19-0242	ROGERS, WILLIAM	06/26/19
19-1289	ROMANO, RICARDO	05/06/20
20-0234	RUBIO, CHRISTOPHER MICHAEL	07/01/20
19-0469	SANDERS, NATHAN	11/20/19
20-108/09	SHUMWAY, BRADLEY JACOBS	07/01/20
19-1248	SIMMS, CHRISTOPHER	04/01/20
20-0245	SPIELBAUER, JEREMY DAVID	06/17/20
19-0676	TILGHMAN, MICHAEL JOSEPH	09/11/19
20-262/63	TURLEY, ANDREW JAMES	06/17/20
19-0776	UKWUACHU, SAMUEL	10/02/19
20-0488	VILLAFRANCO, JESSE, JR.	09/16/20
20-0048	VILLARREAL, DAVID ASA	06/17/20
20-0157	WADE, ROBERT ERIC, III	04/22/20
18-1015	WATKINS, RALPH DEWAYNE	12/05/18
20-0236	WEST, TIMOTHY	06/24/20
20-0241	WEXLER, SUZANNE ELIZABETH	06/17/20
19-0388	WHEELER, CHASE ERICK	09/25/19
20-0504	WILLIAMS, APRIL LOREACE	09/23/20
19-0477	WILLIAMS, ISSAC	08/21/19
18-1247	WORK, SIDNEY ALEX	01/30/19

**NUMERICAL LISTING WITH ISSUES GRANTED**

**18-0552**                      **JONES, JORDAN BARTLETT**                      **07/25/18**  
**STATE'S**    **SMITH**    **UNLAWFUL DISCLOSURE OF**  
**INTIMATE VISUAL MATERIAL**

1. Is Tex. Penal Code § 21.16(b) a content-based restriction on speech that is subject to strict scrutiny?
2. May a court of appeals find a statute unconstitutional based on a manner and means that was not charged?
3. Is Tex. Penal Code § 21.16(b) facially constitutional?

**18-0831**                      **DUNHAM, MARC WAKEFIELD**                      **12/05/18**  
**APPELLANT'S**    **HARRIS**    **DECEPTIVE BUSINESS**  
**PRACTICE**

1. The evidence is legally insufficient to sustain Appellant's conviction for deceptive business practice where Appellant did not make any affirmative mis-representation, the State's theory of liability was based on an omission rather than an act, and the complainant accurately understood the commercial terms when the transaction occurred.
2. Whether deceptive business practice is a "nature-of-conduct" or "circumstance-of-conduct" offense and whether the jury must agree unanimously that the defendant committed the same specific act of deception to convict him. (C.R. 87-88; 4 R.R. 103-08).

**18-0894**                      **LOCH, VITH**    **12/05/18**  
**STATE'S**    **HARRIS**    **MURDER**

1. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant was already deportable at the time of his guilty plea due to prior convictions?
2. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant knew he was already deportable at the time of his guilty plea due to prior convictions?
3. Was the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when Appellant was already deportable, the evidence of guilt was overwhelming, and he was morally motivated to plead guilty?

**18-1015**                      **WATKINS, RALPH DEWAYNE**                      **12/05/18**  
**APPELLANT'S**    **NAVARRO**    **POSSESSION OF CONTROLLED**  
**SUBSTANCE**

While reviewing a violation of the Michael Morton Act, the Court of Appeals erred in its materiality analysis.

**18-1090**                      **FOREMAN, NATHAN RAY**                      **02/13/19**  
**18-1091**  
**STATE'S**    **HARRIS**    **AGGRAVATED ROBBERY**  
**AGGRAVATED KIDNAPPING**

1. The Fourteenth Court erred by holding that a magistrate could not infer from the warrant affidavit that an auto body shop would have a surveillance system. The Fourteenth Court held that before a magistrate could consider common knowledge, the matter must be "beyond dispute," a civil standard the Fourteenth Court grafted onto Fourth Amendment law.
2. The Fourteenth Court erred by holding that when officers see a surveillance system recording a location where crime occurred two weeks prior, they do not have probable cause to seize the system's hard drive unless they know what is on the hard drive prior to examining it.
3. The Fourteenth Court erred by holding that the error required reversal, even under the standard for non-constitutional error, where the State's remaining evidence was overwhelming and the defense non-existent.

**18-1247**                      **WORK, SIDNEY ALEX**                      **01/30/19**  
**APPELLANT'S**    **MILLS**    **POSSESSION OF CONTROLLED**  
**SUBSTANCE;**  
**TAMPERING W/EVIDENCE**



1. Can an appellate court disregard the issue of error preservation so that the State has a remedy when a capital murder case is dismissed because of the State's own actions in disappearing a confidential informant?
2. Can an appellate court reverse a trial court's dismissal under TRE 508 without ever addressing the untrustworthiness of the State's position that the State does not know the identity of the confidential informant?

**19-0202**                      **MONTELONGO, ALBERTO**                      **05/18/19**  
**APPELLANT'S**    **EL PASO**    **ATTEMPTED CAPITAL**  
**MURDER,**  
**ASSAULT**

Whether or not the 8th Court of Appeals erred in finding that Appellant waived his right to a hearing on a properly presented and filed motion for new trial?

**19-0203**                      **ALLEN, MATTHEW JOSEPH**                      **06/26/19**  
**APPELLANT'S**    **COLLIN**    **CONTINUOUS SEXUAL ABUSE**  
**OF YOUNG CHILD,**  
**INDECENCY W/CHILD**

2. The panel erred when it failed to find the evidence was legally insufficient to support the jury's finding of guilt beyond a reasonable doubt as to each and every element of the offense of indecency with a child by sexual contact, especially considering the panel unilaterally substituted a date of offense contradictory to the indictment and the court's charge which created double jeopardy issues.

**19-0242**                      **ROGERS, WILLIAMS**                      **06/26/19**  
**APPELLANT'S**    **REFUGIO**    **BURGLARY OF HABITATION**

Did the Court of Appeals err in the analysis for error considering the evidence in the record of the case?

**19-0244**                      **LUJAN, ERLINDA**                      **06/05/19**  
**19-0245**    **EL PASO**    **ENGAGING IN ORGANIZED**  
**STATE'S**    **CRIMINAL ACTIVITY (2);**  
**TAMPERING W/HUMAN CORPSE**  
**TAMPERING W/EVIDENCE**

The Eighth Court erred in upholding the trial court's ruling that the second, in-car session of Lujan's interview was not a continuation of the first, interview-room session, because: (1) under the *Bible* factors, the second-session interview was a continuation of the first; and (2) requiring police to re-*Mirandize* a suspect if the police engage in ambiguous conduct that *could be* construed as terminating, or setting a temporal limitation on, the interrogation (and attendant *Miranda* rights) undermines the ease and clarity of *Miranda's* application by requiring officers to continually second-guess whether they made any such potentially ambiguous statements.

**19-0388**                      **WHEELER, CHASE ERICK**                      **09/25/19**  
**STATE'S**    **TARRANT**    **DRIVING WHILE INTOXICATED**

2. Can an officer act in objective good faith by relying on the magistrate's approval of a warrant that is defective in form?

**19-0424**                      **CHAMBERS, LARRY THOMAS, JR.**                      **10/02/19**  
**APPELLANT'S**    **WILLIAMSON**    **POSSESSION OF**  
**CONTROLLED SUBSTANCE**

Is Appellant entitled to an instruction pursuant to Article 38.23 of the Code of Criminal Procedure when there is a factual dispute regarding the officer's credibility and a conflict between his testimony and his dashcam video?

**19-0469**                      **SANDERS, NATHAN**                      **11/20/19**  
**APPELLANT'S**    **LUBBOCK**    **HARASSMENT**

Texas Penal Code section 42.07(a)(7) is a content-based restriction that restricts a real and substantial amount of speech as protected by the First Amendment; speech which invades privacy interests of the listener has never been held by the United States Supreme Court to be a category of unprotected speech.

**19-0477**  
**STATE'S**

**WILLIAMS, ISSAC**

**BEXAR**

**08/21/19**  
**CONTINUOUS TRAFFICKING**  
**OF PERSONS**

1. Did Williams preserve his request for the lesser-included offense of human trafficking when he failed to identify any evidence supporting this request and denied committing any offense?
2. Did the court of appeals err by concluding that the lesser-included offense of human trafficking was a rational alternative to continuous human trafficking?
3. The court of appeals erred by automatically reversing Williams' conviction rather than applying the standard required by Almanza.

**19-0478**  
**APPELLANT'S**

**NUNCIO, LEONARDO**

**WEBB**

**08/21/19**  
**HARASSMENT**

1. Justice Rodriguez's dissent contains the same criticisms of the challenged statute that were addressed in 1983 by the U.S. Fifth Circuit Court of Appeals in *Kramer v. Price*. *Kramer v. Price* struck down the previous version of Penal Code § 42.07. The defects described in Justice Rodriguez's dissent and in *Kramer v. Price* have not been resolved.
2. The Fourth Court of Appeals' decision, and the text of the challenged statute depart from accepted social norms and common understandings of the meaning of the word "harassment." The Fourth Court's majority opinion, and the challenged statute, risk the criminalization of conduct that would not generally be considered 'criminal' by people of ordinary intelligence. Further, because of this disconnect between common sense and the text of the statute, the challenged statute chills emotional speech, hyperbolic speech, metaphor, sharply critical speech and sexual overtures; TRAP § 66.3 (f).
3. Texas Courts' attempts to construe § 42.07 have led to baffling decisions that show no discernible logic or pattern that can be followed. The resulting authorities constitute a case by case evaluation of whether the subject speech makes reference to an "ultimate sex act." As a result of this lack of clear guidance, the statute is overly broad and chills too much speech.
4. The Court of Appeals should settle this important question because the statute unconstitutionally delegates prosecutorial decision-making and because the potential chilling effect is broad, TRAP § 66.3(b).

**19-0563**  
**APPELLANT'S**

**MARTIN, CASEY ALLEN**

**TARRANT**

**10/09/19**  
**POSSESSION OF**  
**METHAMPHETAMINE**

In *Talent v. City of Abilene*, 508 S.W.2d 592 (Tex. 1974), peace officers were distinguished from firefighters, who "(have) no roving commission to detect crime or to enforce the criminal law." Unlike fire marshals, who are peace officers, firefighters do not have general law-enforcement powers. Thus, absent an exigency that allows an officer to enter without a warrant, if a firefighter enters a home to extinguish fires or save lives and notices contraband even in plain view, that firefighter's knowledge does not "impute" to a peace officer, and the officer should be prohibited from entering the home without a warrant

**19-0572**  
**STATE'S**

**GONZALEZ, VICTOR ORTIZ**

**TARRANT**

**08/21/19**  
**AGGRAVATED ASSAULT**

Can a jury charge applying an unalleged reckless culpable mental state for aggravated assault in a unitary application instruction cause egregious harm when applying that same reckless culpable mental state as a lesser-included offense would not even be error?

**19-0575**  
**APPELLANT'S**

**CARTER, ANTHONY**

**LUBBOCK**

**09/11/19**  
**POSSESSION OF CONTROLLED**  
**SUBSTANCE W/INTENT TO**  
**DELIVER**

In a sufficiency analysis, may a reviewing court uphold a conviction where the offense is defined by technical elements beyond the understanding of an ordinary factfinder if no evidence on the elements was presented at trial?

**19-0635**  
**APPELLANT'S**

**HAGGARD, JAMES RAY**

**LIBERTY**

**09/25/19**  
**SEXUAL ASSAULT**  
**INDECENCY W/CHILD**









Can error in a sexual-assault charge—which fails to specify that the defendant used his penis—be harmful when there was no evidence or claim that he used anything else?

**19-1289 ROMANO, RICARDO 05/06/20**  
**STATE'S HARRIS INDECENT EXPOSURE**

The lower court misapplied the standard of review in this case. Specifically, the panel in this case assumed the role of fact-finder rather than viewing the evidence in the light most favorable to the verdict.

**19-1292 BROWN, FREDERICK L. 03/11/20**  
**APPELLANTS GREGG ASSAULT**

1. The Court of Appeals erred when it held Appellant's actions invoked the forfeiture by wrongdoing doctrine in violation of the Sixth Amendment's right to confront one's accuser; is not knowing the location of a witness wrongdoing – especially if the State was able to serve the witness with a subpoena after said action?
2. The Court of Appeals erred when it held the witness was unavailable to testify even though she had been served with a subpoena and the State of Texas made no further effort to secure her appearance.

**19-1319 LOZANO, CARLOS 05/06/20**  
**STATE'S EL PASO MURDER**

The Eighth Court of Appeals erred in its preliminary holding that Appellant was entitled to jury instructions on the use of deadly force in self-defense because there was no evidence presented from any source of Appellant's subjective state of mind at the time of the shooting, that is, whether he was in immediate apprehension or fear that the deceased was about to kill or seriously injure him at the time he shot the deceased, such that Appellant was not entitled to any self-defense instructions. Therefore, any errors in the self-defense instructions actually submitted did not result in egregious harm because Appellant was not entitled to the instructions in the first place.

**20-0003 KUYKENDALL, KYLE DEAN 03/11/20**  
**STATE'S KERR FAILURE TO APPEAR**

What is the unit of prosecution for failure to appear, TEX. PENAL CODE § 38.10?

**20-0034 BROWN, SULIA LAWRENCE 04/01/20**  
**STATE'S TARRANT AGGRAVATED SEXUAL ASSAULT**

1. Article 46B.0095 of the Texas Code of Criminal Procedure allows for commitment of an incompetent defendant for the "maximum term provided by law for the offense for which the defendant was to be tried." The maximum term of confinement for a juvenile adjudicated for a first-degree felony offense is forty years if the State obtains grand jury approval for a determinate-sentence. What, then, is "the maximum term provided by law" for determining the length of mental-health commitment for a juvenile who is accused of a crime severe enough to be determinate-sentence eligible but is found unfit to proceed before a grand jury could make a determinate-sentence finding?
2. Should the Second Court of Appeals have considered the State's defense that it was prohibited from pursuing a determinate-sentence finding from the grand jury because the juvenile was found unfit to proceed and the judicial proceedings were stayed as a matter of law?

**20-0048 VILLARREAL, DAVID ASA 06/17/20**  
**APPELLANT'S BEXAR MURDER**

The court of appeals erred in holding that the trial court properly limited the Appellant's ability to consult with trial counsel during an overnight recess in violation of the Appellant's Sixth Amendment right to counsel.

**20-0059 HARBIN, JAMES BERKELEY, II 03/25/20**  
**STATE'S DALLAS MURDER**

Is a summary reversal warranted when the lower court violated an absolute requirement by applying law not applicable to the case, *i.e.*, the punishment-phase sudden passion issue, not in effect until 1994, to a first-degree murder committed in 1991?

**20-0064 FLORES, JUAN CARLOS 06/24/20**  
**APPELLANT'S GRAYSON AGGRAVATED ROBBERY**

The court of appeals erred where it held the evidence to be sufficient to prove the use of a deadly weapon where the alleged weapon was not used in a way that was capable of causing death or serious bodily injury.

**20-0108 SHUMWAY, BRADLEY JACOBS 07/01/20**  
**20-0109 APPELLANT'S MONTGOMERY INDECENCY W/CHILD**

1. Does the corpus delicti rule require evidence totally independent of a defendant's extrajudicial confession showing that the 'essential nature' of the charged crime was committed by someone?
2. Can independent evidence as to time, motive, opportunity, state of mind of the defendant, and/or contextual background information satisfy the corpus delicti rule in an indecency with a child charge when there is zero evidence of sexual contact?
3. Is the evidence legally sufficient to support convictions for indecency with a child when the independent evidence does not tend to establish sexual contact?
4. Did the Ninth Court of Appeals improperly circumvent The Court of Criminal Appeals 2015 ruling on corpus delicti doctrine in *Miller v. State*, 457 S.W.3d 919 (TEX. CRIM. APP. 2015) which expressly declined to use a trustworthiness standard regarding the legal sufficiency standard?

**20-0157 WADE, ROBERT ERIC, III 04/22/20**  
**STATE'S WILLIAMSON AGGRAVATED ASSAULT**

1. Whether conclusory lay testimony can contradict undisputed testimony from medical sources and a victim on the issue of serious bodily injury such that a lesser-included offense is a "valid, rational alternative" to the charged offense.

**20-0166 ALCOSER, DANNY WAYNE 05/06/20**  
**STATE'S McLENNAN ASSAULT**

1. The court of appeals misapplied the egregious harm standard of review for unobjected-to jury charge error under *Almanza v. State*, 686 S.W. 2d 157 (Tex. Crim. App. 1984), in a manner that so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court of Criminal Appeals' power of supervision.
2. The court of appeals' misapplication of the cumulative error doctrine in its analysis of unobjected-to jury charge error so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court of Criminal Appeals' power of supervision.

**20-0234 RUBIO, CHRISTOPHER MICHAEL 07/01/20**  
**APPELLANT'S DALLAS CAPITAL MURDER**

Did the Court of Appeals resolve a procedural issue relating to the timely filing and hearing of an amended motion for new trial in a manner that conflicts with Courts of Appeals and Court of Criminal Appeals precedent?

**20-0236 WEST, TIMOTHY 06/24/20**  
**APPELLEE'S EL PASO POSSESSION OR ATTEMPTED POSSESSION OF OXYCODONE**

In finding that the original indictment that charged three counts of possession or attempted possession of a controlled substance, to wit: tramadol (by misrepresentation, fraud, forgery, deception or subterfuge, on or about three separate dates), alleged the same conduct, act or transaction as a subsequent indictment that charged the possession or attempted possession of oxycodone, the Court of Appeals decision conflicts with decisions of the Court of Criminal Appeals and the United States Supreme Court, Tex. R. App, P. 66.3(a)(c).

**20-0241 WEXLER, SUZANNE ELIZABETH 06/17/20**  
**APPELLANT'S HARRIS POSSESSION OF CONTROLLED SUBSTANCE W/INTENT TO DELIVER**

Whether the Court of Appeals erred by concluding that Appellant's statement to Detective Hill was not obtained via a custodial interrogation without the benefit of any warnings when the statement was made after Appellant was ordered to involuntarily leave a residence by an overwhelming police presence and placed into the back of a police car?

**20-0243**                      **MELGAR, SANDRA JEAN**    **08/19/20**  
**APPELLANT'S**    **HARRIS**    **MURDER**

1. Did the Court of Appeals' legal sufficiency of the evidence analysis comport with *Jackson v. Virginia's* additional requirement that a reviewing court must determine "whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt", especially when the panel mischaracterized crucial evidence, failed to fairly and critically assess what the record evidence showed, and ultimately supplied "a bridge to the analytical gap" in the prosecution's case, by theorizing or guessing about the meaning of evidence and reaching conclusions based on speculation, conjecture, and inferences unsupported by the record evidence?
2. Consistent with Due Process, in an appellate review of the legal sufficiency of evidence, can a jury's assumed disbelief of certain witness testimony establish *substantive proof to the contrary of that testimony*?
3. Did the Court of Appeals fail to apply part of the legal sufficiency standard which, according to *Brooks v. State*, "essentially incorporates a factual sufficiency review" into a review for legal sufficiency?
4. Did the Court of Appeals in its review of the legal sufficiency of the evidence fail to consider *all* the trial evidence as required by *Jackson v. Virginia*, as opposed to just evidence tending to support the verdict, although not establishing guilt beyond a reasonable doubt?

**20-0245**                      **SPIELBAUER, JEREMY DAVID**    **06/17/20**  
**STATE'S**    **RANDALL**    **MURDER**

Can written responses in a juror questionnaire, standing alone, establish a challenge for cause when based upon an inaccurately worded statutory ground for cause?

**20-0262**                      **TURLEY, ANDREW JAMES**    **06/17/20**  
**20-0263**  
**STATE'S**    **HARRIS**    **COMPELLING PROSTITUTION,  
TRAFFICKING OF A CHILD TO  
COMPEL PROSTITUTION**

1. Did the court of appeals err when it held as a matter of law that selling sexual contact with a four-year-old child could never constitute compelled prostitution?
2. Must a child knowingly engage in an act of prostitution for the person who sold sex with her to be guilty of compelling prostitution?

**20-0279**                      **ANDERSON, ANDREW**    **09/16/20**  
**APPELLANT'S**    **DALLAS**    **AGGRAVATED ASSAULT**

1. Whether the 10-day grace period for filing a notice of appeal was unavailable when the incarcerated defendant omitted the words "district clerk" from the envelope he used to send his notice of appeal.
2. Under what circumstances should an incarcerated defendant be allowed factual development to show the clerk physically received his notice of appeal within the 10-day grace period?

**20-0287**                      **PHAM, HAPPY TRAN**    **09/16/20**  
**APPELLANT'S**    **HARRIS**    **MURDER**

1. Whether an attorney provides ineffective assistance when he admits in an affidavit that he failed to interview any potential mitigation witnesses, he made conclusory assumptions about what those witnesses might know about appellant's life, and his decision not to interview any potential witnesses was not based on trial strategy. (C.R. at 329-32, 334-59).
2. Whether trial counsel's failure to investigate even a single avenue of mitigation means that appellant was constructively denied any defense at all in the penalty phase of his trial and therefore prejudice is presumed. (C.R. at 329-32, 334-59).
4. Whether the Court of Appeals erred by holding that because appellant used deadly force, rather than the threat of deadly force, he was not entitled to an instruction on self-defense pursuant to Tex. Pen. Code § 9.04. (VI R.R. at 171-74; XII R.R. at 240).

**20-0289**                      **RANSIER, CHARLES ROBERT**    **08/19/20**  
**STATE'S**    **COMAL**    **TAMPERING WITH OR  
FABRICATING PHYSICAL**

## EVIDENCE

1. When—as the Ransier Dissent recognizes—the record does not support a rational conclusion that if Appellant was guilty of anything, it was only attempted tampering, should the Fourteenth Court have nevertheless reversed Appellant's conviction because of the failure to include a 'lesser-included offense' instruction to which he was not entitled?

**20-0309**  
**STATE'S**

**BIGGERS, DARREN LAMONT**  
**COOKE**

**09/16/20**  
**POSSESSION OF CONTROLLED**  
**SUBSTANCE**

When the State alleges, but fails to prove, the codeine mixture the defendant possessed contains a sufficient proportion of another medicine to be medicinal, should he be acquitted?

**20-0310**  
**APPELLANT'S**

**PERKINS, MICKEY RAY**  
**BROWN**

**08/19/20**  
**AGGRAVATED ASSAULT**

2. The Court of Appeals erred in holding the trial court acted within its discretion in allowing the State to introduce extensive details about an extraneous offense during the guilt-innocence phase when Perkins was willing to stipulate to it.

**20-0325**  
**STATE'S**

**EDWARD, DUKE**  
**GALVESTON**

**09/16/20**  
**ASSAULT**

The court of appeals misapplied the standard of review for sufficiency of the evidence and in a manner that so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court of Criminal Appeals' power of supervision.

**20-0478**  
**STATE'S**

**HALLMAN, ROBERT F.**  
**TARRANT**

**09/30/20**  
**AGGRAVATED SEXUAL**  
**ASSAULT, INDECENCY**  
**W/CHILD**

1. Did the Court of Appeals err when it conducted a purely *de novo* review of the trial court's denial of a motion for mistrial for an alleged *Brady* violation, a ruling which is traditionally reviewed for an abuse of discretion?

2. In concluding that the non-disclosed evidence in this case was material because it "might have tipped the balance and resulted in an acquittal," did the Court of Appeals erroneously diverge from the proper materiality standard, specifically that evidence is material only if there is a reasonable probability that, had it been disclosed, the outcome of the trial would have been different?

3. In light of the entire body of evidence, did the Court of Appeals err in concluding that Appellant's ability to impeach a witness regarding a distant extraneous offense with her own handwritten statement in reasonable probability would have resulted in a different outcome at trial, when that witness was actually impeached on the same issue in a different manner?

**20-0488**  
**APPELLANT'S**

**VILLAFRANCO, JESSE, JR.**  
**MIDLAND**

**09/16/20**  
**AGGRAVATED SEXUAL**  
**ASSAULT, ATTEMPTED**  
**INDECENCY W/CHILD,**  
**INDECENCY W/CHILD**

1. This Court should review this case because the court of appeals refused to remand this case to the trial court to remedy its error as required by this Court's holding in *Lapointe v. State*.

2. Assuming that the error in this case should have been reviewed pursuant to the harmless beyond a reasonable doubt standard, the error clearly was not harmless beyond a reasonable doubt.

**20-0504**  
**STATE'S**

**WILLIAMS, APRIL LOREACE**  
**GUADALUPE**

**09/23/20**  
**DELIVERY OF CONTROLLED**  
**SUBSTANCE**

1. The judge, on an at best, partially developed record, required one spectator to view one witness's testimony contemporaneously from a neighboring room. Is this the sort of closure requiring reversal contemplated by the right to a public trial?
2. Did the Fourth Court of Appeals fail to adequately address petitioner's argument that the courtroom was not closed as required by Rule 47.1 of the Texas Rules of Appellate Procedure?
3. Does the Fourth Court of Appeals's opinion fail to provide proper guidance and risk creating confusion for other courts when it failed to make a clear distinction between full and partial courtroom closures and the standards applicable to each type of closure?

**20-0556**  
**STATE'S**

**DO, PHI VAN**

**HARRIS**

**09/30/20**  
**DRIVING WHILE INTOXICATED**

1. The Fourteenth Court erred by applying the constitutional harm standard to unobjected-to charge error.
2. Alternatively, the Fourteenth Court erred by concluding that a punishment-phase objection preserved error in the guilt-phase charge.
3. The Fourteenth Court erred by finding reversible harm even though the error concerned an uncontested matter established by objective facts.

**20-0561**  
**STATE'S**

**JOHNSON, JACOB MATTHEW**  
**BRAZORIA**

**09/16/20**  
**POSSESSION OF MARIJUANA**

1. Is the use of overhead emergency lights, combined with factors present in most if not all encounters, sufficient to seize the occupants of a parked vehicle?
2. If appellant was seized, was it reasonable?

**20-0624**  
**APPELLANT'S**

**CURLEE, DALLAS SHANE**  
**JACKSON**

**09/30/20**  
**POSSESSION OF CONTROLLED**  
**SUBSTANCE IN DRUG FREE**  
**ZONE**

1. Under the Drug Free Zone statute, is an area with play equipment presumed to be "open to the public" freeing the State from having to produce legally sufficient evidence at trial?
2. Did the 13th Court of Appeals err by improperly analyzing the record for legally sufficient evidence proving that the "playground" was "open to the public" under the Drug Free Zone statute?
3. Did the 13th Court of Appeals err in finding that the area where it was alleged that Petitioner possessed drugs was a "playground" as defined by the Drug Free Zone statute?