



Pending Petitions for Discretionary Review in the Court of Criminal Appeals

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@OSPATX



Evidence



Molina, PD-1079-19

Was the
Confrontation
Clause violated
when a
Houston crime
lab tech
testified about
a DNA profile
generated by
Reliagene?



Bahena,
PD-0653-20

Was it proper for a sheriff's deputy to authentic inmate-jail-call recordings as a custodian or "other qualified witness" for purposes of the business records exception when the recording system was owned and operated by a private company?

Valadez, PD-0574-19 (Appellant's)
Lynch, PD-1089-20 (State's)

Is it proper to admit evidence of a defendant's prior drug convictions & drug-related evidence to prove intent and knowledge to rebut the defendant's alternative perpetrator defense?





Macedo, PD-1053-20

Is hearsay evidence, not ordinarily admissible at the guilt phase under the evidentiary rules, admissible at punishment under TEX. CODE CRIM. PROC. art. 37.07 § 3(a)(1) when it is “relevant to sentencing”?

Defensive Issues

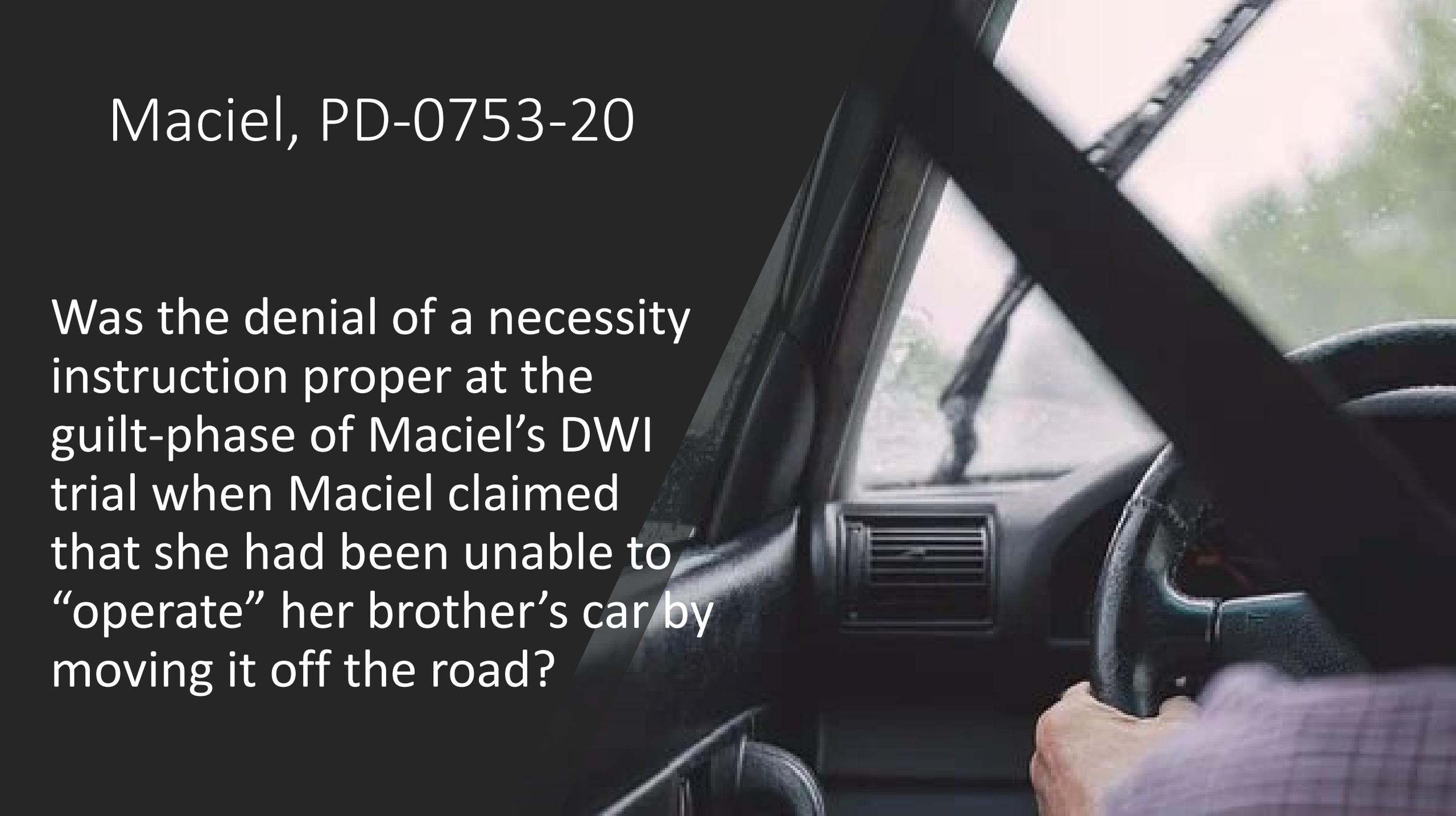




Rodriguez, PD-1130-19

Was confession and avoidance for self-defense, defense of another, and necessity satisfied when Rodriguez claimed the gun accidentally discharged?



A close-up, slightly blurred photograph of a car's interior. A hand is visible on the steering wheel, which is partially in the foreground. The background shows the car's dashboard and windows, with some greenery visible outside. The lighting is somewhat dim, suggesting an overcast day or a shaded area.

Maciel, PD-0753-20

Was the denial of a necessity instruction proper at the guilt-phase of Maciel's DWI trial when Maciel claimed that she had been unable to "operate" her brother's car by moving it off the road?

Hernandez, PD-0790-20

“Is indecency by touching the victim’s sexual organ a lesser-included offense of penetrating the child’s mouth with the defendant’s sexual organ if the former is the defendant’s version of the incident?”





Jury Charge

Do, PD-0556-20

Is the .15 Class A
misdemeanor DWI
enhancement a guilt- or
punishment-phase issue?

Must a defendant object to
its omission from the jury
charge at guilt?





Search and Seizure

Igboji, PD-0936-20

“Do exigent circumstances to seize a cellular phone for fear of unintentional loss of evidence require that law enforcement act at the earliest possible opportunity?”



Interrogation



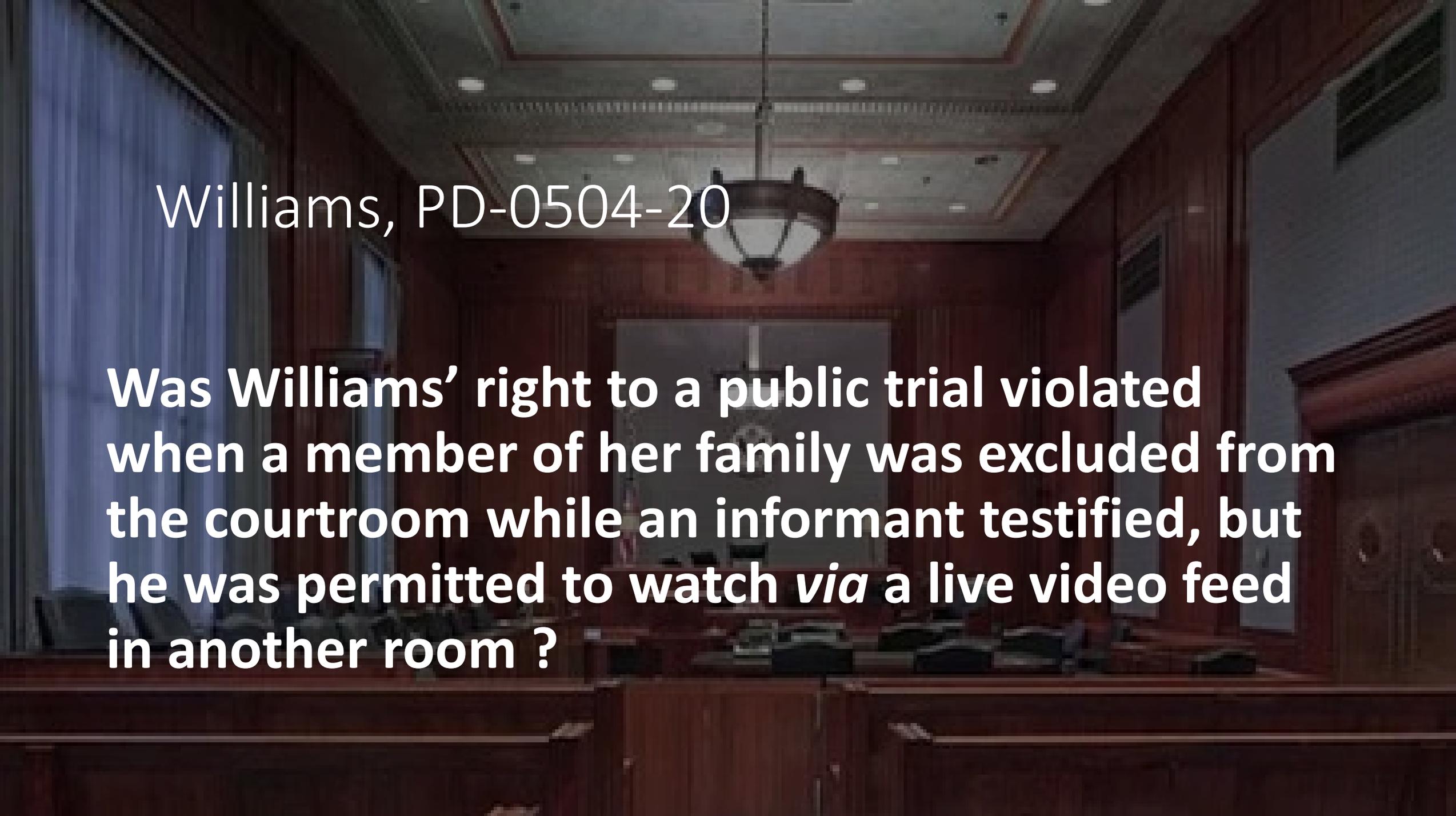
Wexler, PD-0241-20

CRIME SCENE

Was Wexler in custody for purposes of *Miranda* and Tex. Code Crim. Proc. art. 38.22 when she was placed in a patrol car while a “High Risk Operations Unit” executed a search warrant at her house and an officer directed Wexler to tell him where the drugs were located?



Sixth Amendment

A photograph of a courtroom interior. The room features dark wood paneling on the walls and ceiling. A central light fixture hangs from the ceiling. The foreground shows a wooden bench or desk area. The background shows a courtroom layout with a judge's bench and a witness stand.

Williams, PD-0504-20

Was Williams' right to a public trial violated when a member of her family was excluded from the courtroom while an informant testified, but he was permitted to watch *via* a live video feed in another room ?

Cruel
&
Unusual

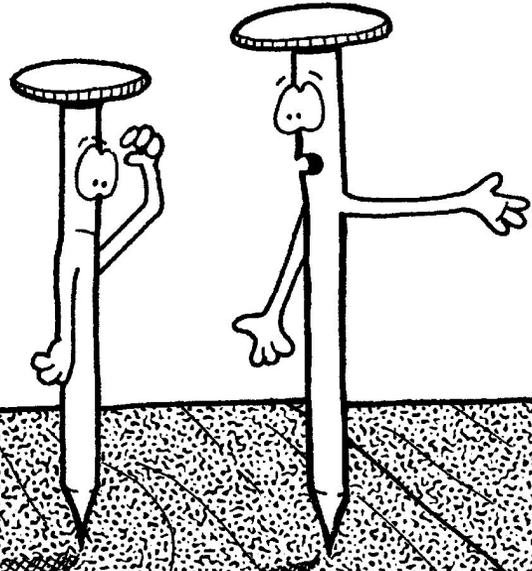




Avalos, PD-0038/39-21

1. “Are mandatory life-without-parole sentences cruel and unusual as applied to intellectually disabled offenders?”
2. If yes, “what are the available punishment options?”

... AND THEN I HEARD A
LOUD BANG AND WHEN I
TURNED BACK HE WAS GONE!



Statutory Construction



Turley,
PD-0262/63-20

Can there be compelling prostitution or trafficking by compelling when the toddler could not have knowingly committed prostitution?



Ramos, PD-0788-20

“Did the Legislature intend punishments for both continuous sexual abuse, TEX. PENAL CODE § 21.02, and prohibited sexual conduct, TEX. PENAL CODE § 25.02, against the same child?”



Kahookele,
PD-0617-20

Are aggravated state-jail felonies in TEX. PENAL CODE § 12.35(c) subject to further enhancement under the repeat and habitual-offender statute—TEX. PENAL CODE § 12.42(d)—rather than exclusively under § 12.425?

Martin, PD-1034-20

“Does unlawful carrying of a weapon by a gang member, TEX. PENAL CODE § 46.02(a-1)(2)(C), require proof the defendant was continuously or regularly committing gang crimes?”



Green, PD-1182-20

Lennox, PD-1213-20

What are the effects—for charging, guilt, & sentencing—of TEX. PENAL CODE § 32.21(e-1)'s forgery value ladder that reduces the felony offenses to misdemeanors depending on the value of the property or service the actor sought to obtain or attempted to obtain?

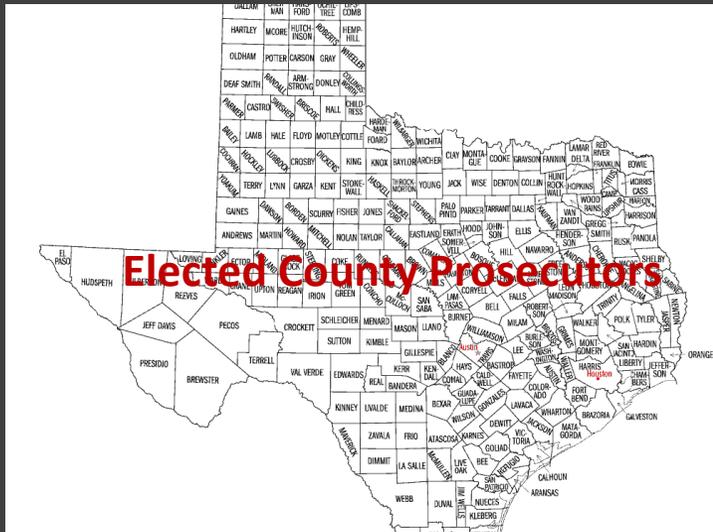




Stephens, PD-1032/33-20

1. “Whether, if the Attorney General has the authority to prosecute this case under § 273.021, the statute’s grant of prosecutorial authority violates the separation of powers requirement in the Texas Constitution.”

versus



2. “Whether the Attorney General has the authority to prosecute ‘election law’ cases outside of the Election Code, and if so, whether Penal Code § 37.10 is an ‘election law’ within the meaning of Election Code § 273.021.”

3. “Whether campaign finance reports are ‘election records’ within the meaning of Penal Code § 37.10.”

Brent, PD-0020-21

Did the trial court
maintain jurisdiction
to grant Brent
clemency two years
after she discharged
community
supervision under TEX.
CODE CRIM. PROC. art.
42A.701(e)?



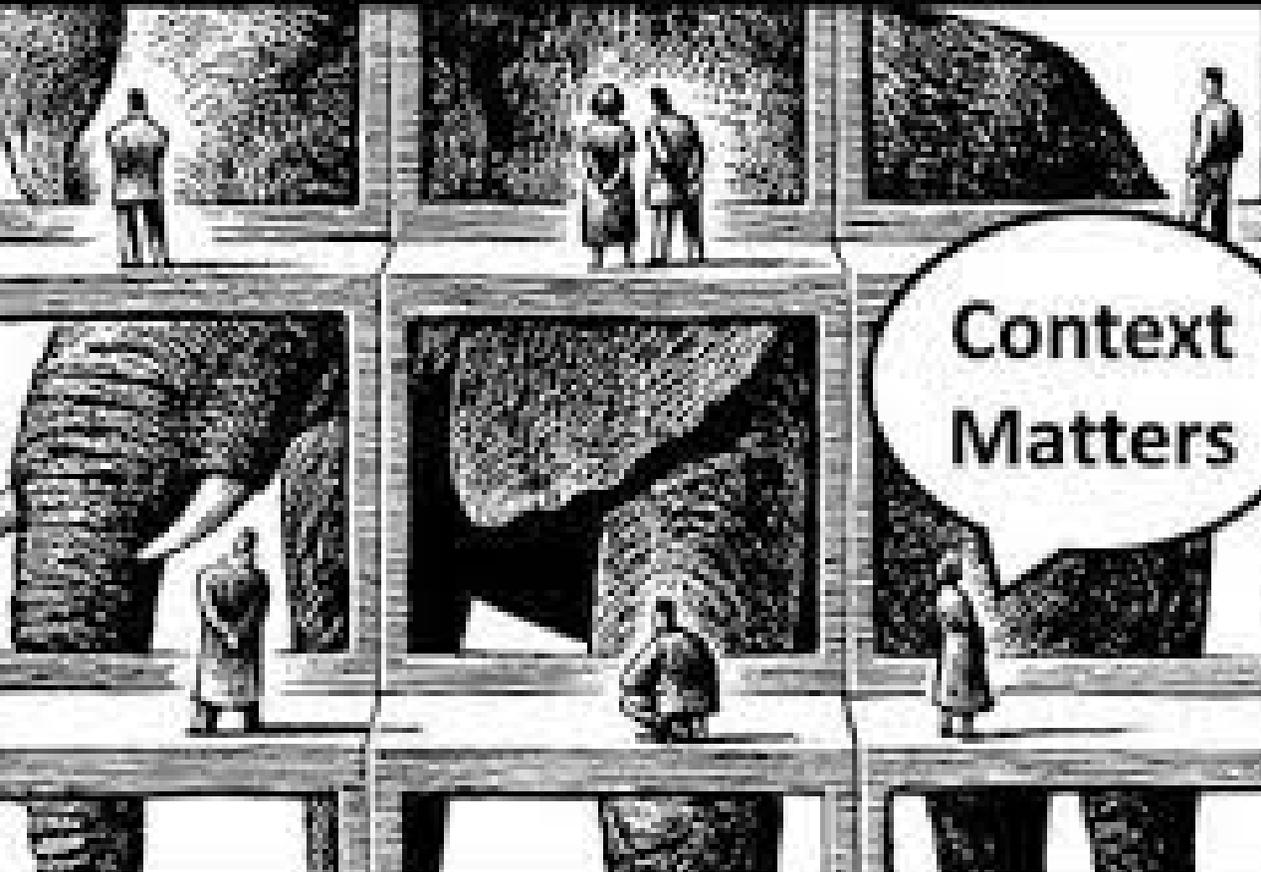
Mason, PD-0881-20



1. Does illegal voting under TEX. ELEC. CODE §64.012(a)(1) require the person to know that she is ineligible to vote, as opposed to just having knowledge of the fact that makes her ineligible?
2. Does construing Tex. Elec. Code § 64.012(a)(1) to only require knowledge of the fact that makes a person ineligible result in Tex. Elec. Code § 64.012(a)(1) being preempted by the Help America Vote Act, which aims to protect persons who submit a provisional ballot in good faith?
3. Is casting a provisional ballot “vot[ing] in an election” under Tex. Elec. Code § 64.012(a)(1)?



Sufficiency



Shumway, PD-0108/09-20

“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 child charge when there is zero evidence of sexual contact?”

Biggers, PD-0309-20

“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?”



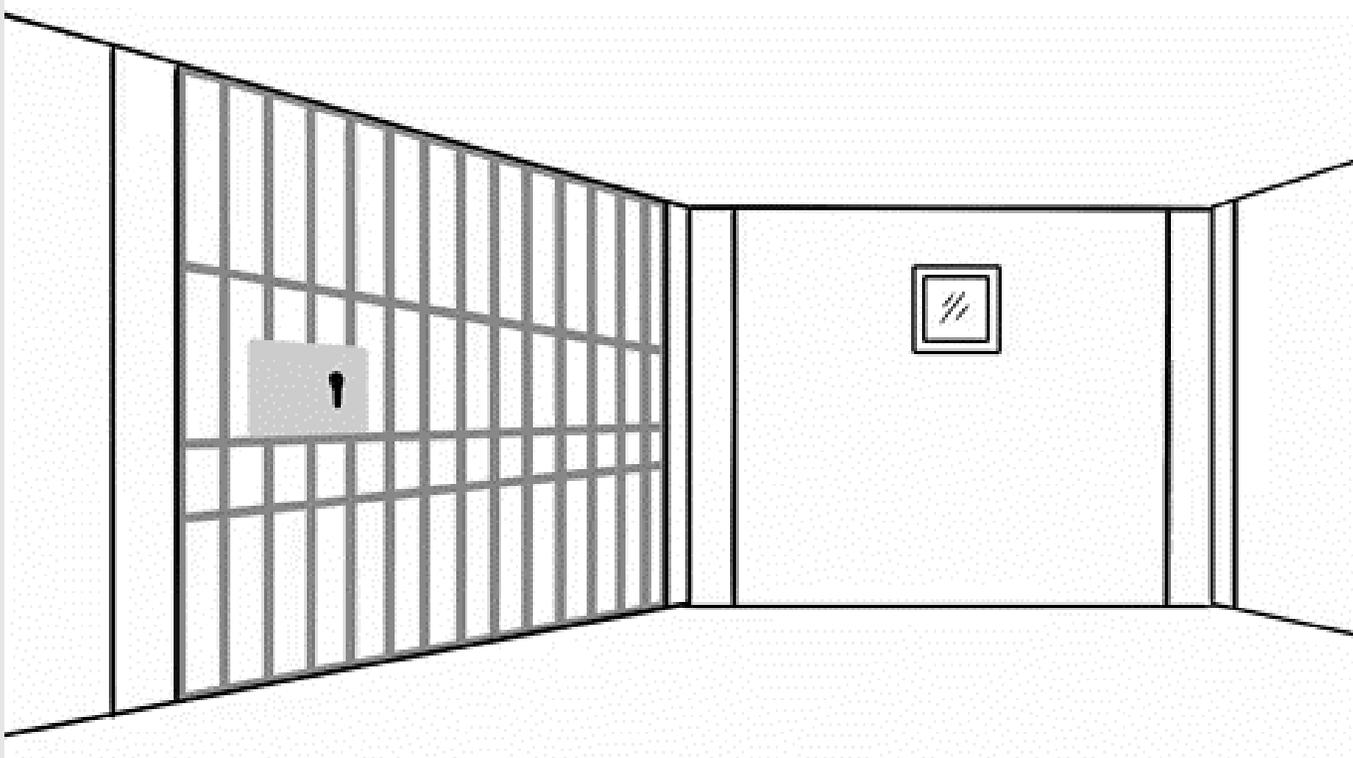
Procedure



Rubio, PD-0234-20

Can a trial judge entertain an amended motion for new trial after the judge already overruled the original motion for new trial?





Ex parte Gomez, PD-0724/25-20

Can a district court find bond insufficient without finding any additional factors that would justify the increase after the defendant posted bond and was released?

“If a case at the petition-to-adjudicate stage and a defendant’s subsequent similar crime at the guilt phase are heard simultaneously, are they ‘prosecuted in a single criminal action’ such that any imposed sentences must run concurrently?”



Middleton, PD-1236/40-20

“Does TEX. CODE CRIM. PROC. art. 4.07’s grant of ‘original jurisdiction of all misdemeanors’ give county courts jurisdiction—concurrent with district courts—over official misconduct cases?”

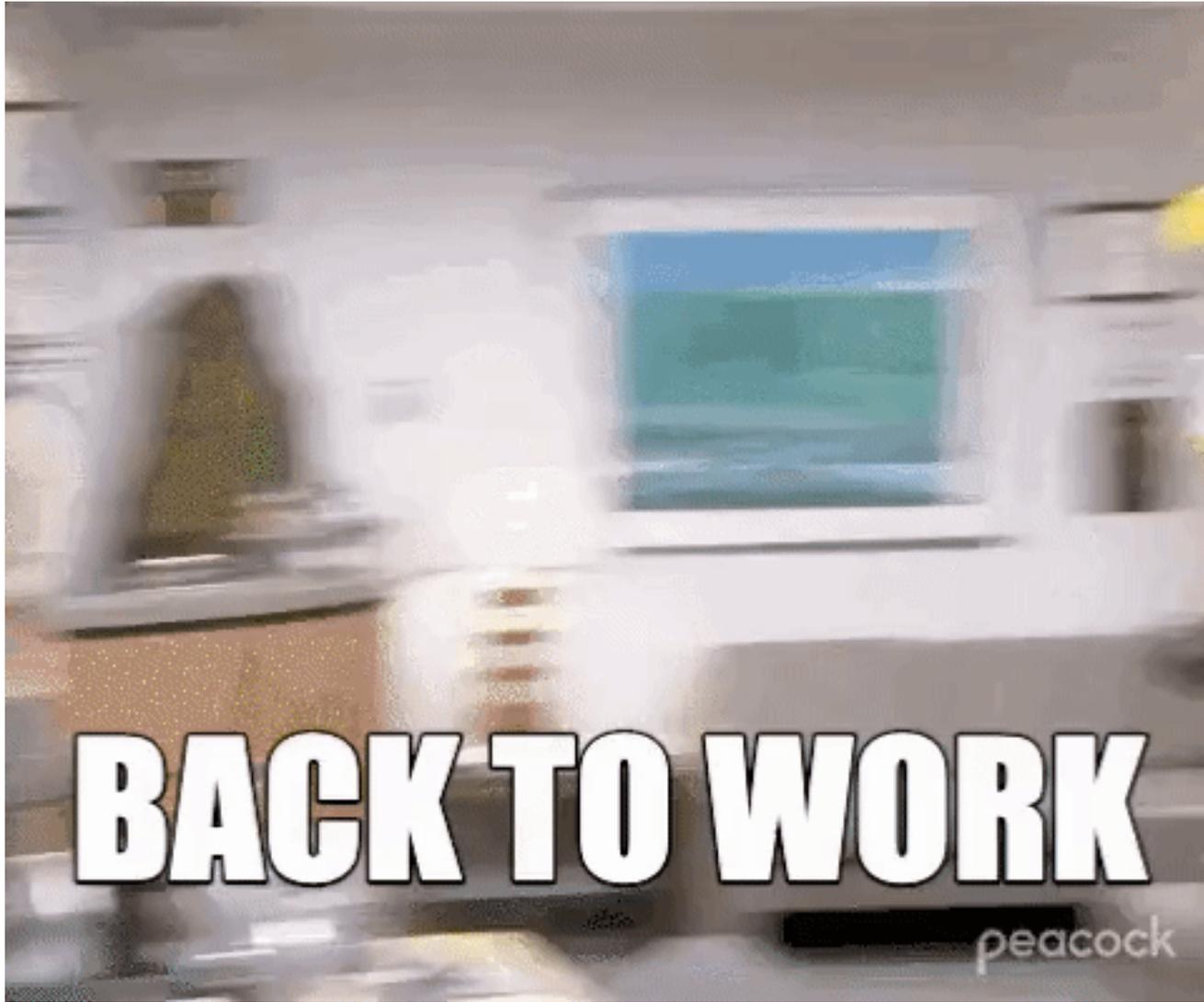


Roland, PD-0035-21

Holder, PD-0026-21

Is a search/seizure that violates the Texas Constitution (because it depends on the statutory exclusionary rule to exclude evidence at trial) subject to the non-constitutional harm standard?





Thank you