

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
June 6, 2014

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, June 11, 2014, beginning at 9:00 a.m., before the following panel of justices: Justice Karen Angelini, Justice Sandee Bryan Marion, and Justice Patricia O. Alvarez.

The following cases will be presented:

Jesus Cardoso v. The State of Texas – A jury convicted appellant, Jesus Cardoso, of ten counts of cruelty to animals. In two issues on appeal, appellant asserts (1) the trial court erred by denying his motion to suppress, and (2) his right to a unanimous verdict was violated.

Cesar Perez v. The State of Texas — A jury found appellant, Cesar Perez, guilty of theft by a public servant, and the trial court assessed punishment at eight years' confinement, probated. In two issues on appeal, appellant asserts the evidence is insufficient to (1) corroborate the accomplice witness testimony, and (2) sustain the conviction of aggregated theft of more than \$1,500 pursuant to one scheme or continuing course of conduct.

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, June 11, 2014, beginning at 1:30 p.m., before the following panel of justices: Justice Karen Angelini, Justice Sandee Bryan Marion, and Justice Patricia O. Alvarez.

The following case will be presented:

Wal-Mart Stores, LLC, et al. v. Jo-Ann Flores, Individually and as Representative of the Estate of Justin M. Flores, Deceased, et al. – In this appeal, the appellants bring six issues:

(1) Is a new trial required because a juror disqualified by illiteracy concealed his illiteracy, served as a juror, and voted for the 10-2 verdict?

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- (2) May a trial court, sua sponte, remove a juror during trial for bias when neither party raised a claim of bias, moved to strike the juror, or requested further inquiry of the juror?
 - (3) Was evidence that the decedent failed to use a seat belt admissible to prove contributory negligence?
 - (4) Did the testimony of appellee's expert prove Wal-Mart was negligent in measuring the tire's tread depth?
 - (5) Was the jury's finding of no negligence by Cantu Chevrolet against the great weight of the evidence?
 - (6) Were the damages returned by the jury excessive?

The Fourth Court of Appeals will hear oral arguments in one appeal on Thursday, June 12, 2014, beginning at 1:30 p.m., before the following panel of justices: Justice Karen Angelini, Justice Rebeca C. Martinez, and Justice Luz Elena D. Chapa.

The following case will be presented:

Bexar Metropolitan Water District n/k/a The San Antonio Water System v. Beatriz Smith - Beatriz Smith sued the City of San Antonio, SAWS, and others for injuries she sustained when she fell into a hole in the sidewalk, alleged to be an uncovered water meter box. SAWS filed a plea to the jurisdiction, asserting it did not receive formal or actual notice of the incident giving rise to Beatriz Smith's claim within six months of the occurrence, as required by the Texas Tort Claims Act. The trial court denied the plea and SAWS filed this accelerated appeal.

The issues on appeal are:

- (1) Whether SAWS is a "governmental unit" within the meaning of the Texas Tort Claims Act that is entitled to notice under the Act separate from any formal notice to or actual notice of the City of San Antonio;
- (2) Whether Smith's notice letter to the claims department of CPS Energy is sufficient formal notice under the Act; and
- (3) Whether SAWS, either as a separate governmental unit or as part of the City of San Antonio had actual notice sufficient to satisfy the requirement of the Texas Tort Claims Act.

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