

# 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, June 14, 2011, beginning at 9:00 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:

- (1) *E-Z Mart Stores, Inc. and Faellen Yates, as Executrix and Personal Representative of the Estate of James Earl Yates v. Ronald Holland's A-Plus Transmission & Automotive, Inc. and Holland R. Inc.* – This appeal arises out of a suit alleging damage from gasoline migration from a neighboring petroleum storage system housed beneath a convenience store's gas pumps. The appeal raises challenges to: (1) the sufficiency of the evidence; (2) the exclusion of certain evidence regarding a former co-defendant; (3) the jury charge; and (4) the damages awarded.
- (2) *Jordan Scott Mitchell v. State consolidated with Austin George Patterson v. State* - Jordan Mitchell and Austin George Patterson were charged by separate indictments with three counts of cruelty to nonlivestock animals. The indictments alleged Mitchell and Patterson had used and exhibited deadly weapons during the commission of the offenses. Mitchell and Patterson asked the trial judge to quash the deadly weapon allegations in the indictments, but the trial judge denied their requests. Mitchell and Patterson ultimately pled guilty to the offenses charged in the indictments and were sentenced by the trial judge. The deadly weapon allegations increased the range of punishment available at sentencing. Mitchell was sentenced to three years' imprisonment. Patterson was sentenced to eight years' imprisonment, but the trial judge later reconsidered Patterson's sentence and reduced it to three years' imprisonment. Mitchell, Patterson, and the State all filed appeals, which have been consolidated by this Court.

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In their appeals, Mitchell and Patterson argue the deadly weapon allegations should not have been included in the indictments because no human life was threatened or harmed during the commission of the offenses. In its appeal, the State argues, among other things, that the trial judge erred in reducing Patterson’s sentence because there was no legal justification for a new punishment phase.

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