PD-0108-20
COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS
Transmitted 10/27/2020 10:02 AM
Accepted 10/27/2020 10:18 AM
DEANA WILLIAMSON
CLERK

PD-0108-20 and PD-0109-20

In the Court of Criminal Appeals of Texas

FILED
COURT OF CRIMINAL APPEALS
10/27/2020
DEANA WILLIAMSON, CLERK

Appellate No. NO. 09-18-00218-CR and NO. 09-18-00219-CR

In the Court of Appeals for the Ninth District

Bradley Jacobs Shumway, *Appellant*

v.

The State of Texas, *Appellee*

APPELLANT/PETITIONER'S REPLY BRIEF

Richard Martin P. Canlas

Attorney for Petitioner Bradley Jacobs Shumway

State Bar Card No. 90001843

300 West Davis, Suite 400

Conroe, TX 77301

936-788-6999

936-539-5764

richard@attorneycanlas.com

PETITIONER'S REPLY BRIEF

1. The Court of Criminal Appeals should not consider The State's request to recognize an exception to the corpus delicti rule for cases involving trustworthy admissions.

The State argues the following:

> *c. Alternatively, this Court should recognize an exception to the corpus delicti rule for cases in involving trustworthy admissions of sexual offenses committed against victims incapable of outcry.*(State's Brief p. 22)

Petitioner followed the Rules of Appellate Procedure, filed a Petition for Discretionary Review on the following four issues listed below:

QUESTION 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?

QUESTION 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 child charge when there is zero evidence of sexual contact?

QUESTION 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?

QUESTION 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 of confessions?

On 1 July 2020, This Honorable Court of Criminal Appeals **granted review only on these four issues**. Whether this Court should recognize an exception to the corpus delicti rule is not one of them.

The State must follow the same rules. It did not request discretionary review; and, this Honorable Court has not granted review on its own.

The State's argument for an exception to the corpus delicti rule should not be addressed and this Honorable Court should not make an exception to the corpus delicti rule.

Respectfully submitted,

/s/ Richard Martin P. Canlas
Richard Martin P. Canlas
Lawyer for Petitioner
SBN: 90001843
300 West Davis, Suite 400
Conroe, Texas 77301
Tel: (936) 788-6999
Fax: (936) 539-5764
richard@attorneycanlas.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of Appellant's Reply Brief was served on the 27th day of October 2020.

Via Efile service to The Montgomery County District Attorney's Office, Bill Delmore.

Via Efile service to Ms. Stacey M. Soule, State's Prosecuting Attorney.

/s/ Richard Martin P. Canlas
Richard Martin P. Canlas
Lawyer for Appellant

CERTIFICATE OF COMPLIANCE WITH RULE 9.4

I hereby certify that this document complies with the requirements of Rule 9.4(i)(2)(B) of the Texas Rules of Appellate Procedure because there are 475 words in this document, excluding those portions of the document excepted from the word count rule under Rule 9.4(i)(1), as calculated by the word processing program used to prepare it.

/s/ Richard Martin P. Canlas
Richard Martin P. Canlas
Lawyer for Petitioner

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Richard Martin Canlas
Bar No. 90001843
richard@attorneycanlas.com
Envelope ID: 47549395
Status as of 10/27/2020 10:18 AM CST

Associated Case Party: BRADLEYJACOBSSHUMWAY

Name	BarNumber	Email	TimestampSubmitted	Status
Richard Canlas		richard@attorneycanlas.com	10/27/2020 10:02:08 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Stacey Soule	24031632	information@spa.texas.gov	10/27/2020 10:02:08 AM	SENT
Bill Delmore		bill.delmore@mctx.org	10/27/2020 10:02:08 AM	SENT