

JAY BRANDON
a sampling of my recent high court cases

The highest courts of Texas chose to review these cases because of their important legal issues. I represented the State in all three.

Ford v. State was the first case in which the Court of Criminal Appeals addressed a new statute that allows law enforcement agents to obtain cell phone records with a court order rather than a warrant. The issue was whether this method is constitutional.

Ford was convicted of murdering his ex-girlfriend after being at a party with her and getting mad about something. The evidence against him was circumstantial: sketchy security footage of a car that looked like his driving past the victim's condo complex and returning, equally grainy footage of a man dressed the way he was that night entering the complex, his DNA on a towel covering the victim's face (where his DNA shouldn't have been four months after they broke up). But the definitive evidence was his cell phone records. While Ford claimed to have gone home and to sleep well before the murder, his cell phone had activity in three different areas, including one that covered the victim's home and one that covered a dam where the killer had thrown the body of the victim's dog after killing the dog as well.

The Court of Criminal Appeals ruled unanimously as I argued, that the records showing the locations of the phone were properly obtained, establishing an important tool for law enforcement officers to trace criminals.

In *Ex parte Castillo* a man attacked his estranged wife and her lover, killing the man and stabbing the wife eleven times. He was acquitted of capital murder and the court of appeals held he couldn't be retried for the attack on his wife because it would violate his rights against double jeopardy.

This demonstrates a recurring problem. The courts of appeals are composed largely of justices who spent their careers practicing civil law. Sometimes they get criminal law concepts wrong, as in this case. I petitioned the Court of Criminal Appeals to review this case and they did, unanimously overturning the court of appeals and allowing the second prosecution to proceed.

L.D.C. was a juvenile case, technically civil law, so its appeal went to the Texas Supreme Court. Again, the court of appeals held his juvenile adjudication should be reversed (for firing a semi-automatic rifle at a street party, including in the direction of a police officer) because of a complicated issue of whether his jury verdict had been unanimous (a criminal law issue applicable in juvenile cases.) On my petition the Supreme Court reversed that ruling unanimously, allowing the result of the trial to stand.

JAY BRANDON
For Court of Criminal Appeals
P.O. Box 6764
San Antonio TX 78209
jaybrandonlawyer@gmail.com

EDUCATION

B.A., English, University of Texas at Austin
M.A., The Writing Seminars, Johns Hopkins University
J.D., University of Houston Law Center

PROFESSIONAL ACTIVITIES

Prosecutor, Bexar County, 2011-present
Advisor to Court of Criminal Appeals on changes to Rules of Evidence and Rules of Appellate Procedure, 2000-2011
Board Certified, Family Law, 2008 – present
2015- 17: Chief, Conviction Integrity Unit, Bexar County District Attorney
2011-15 and 2017 - present: Assistant District Attorney, appeals section
1990 - 2011: private practice, family and criminal law
1989-90: staff attorney, Fourth Court of Appeals
1987-89: assistant district attorney, Bexar County
1985-86: briefing attorney for 18 months, Court of Criminal Appeals

SPEAKER (a selection)

Writ Academy (sponsored by CCA) 2016, “Conflicts of Interest”
Conferences on Criminal Appeals, 2001-2015, “Tips for Writing Effective Briefs”
Conference on Criminal Appeals, 2017, “11.073 writs” and Appellate Panel
Advanced Criminal Law Course 2015, "Charge Errors"
Advanced Criminal Law Course 2010, "Law and Literature"
Advanced Criminal Law Course 2008, “Petitions for Discretionary Review”
Advanced Criminal Law Course 2000, “Extraneous Offenses”
Advanced Criminal Law Course 1992, “Double Jeopardy”
Divorce Law for Prosecutors, June 2014
Ethics for Prosecutors, November 2013
Ethics, Advanced Family Law Makeover, February 2011
San Antonio Family Law Section, 2010, “Can’t We All Just Get Along?”
State Bar CLE webcast 2007, “Ethics in a Murder Mystery”
Legal Writing, Attorney General’s Office, 2005

PUBLICATIONS

LAW AND LIBERTY: A history of practicing law in San Antonio
18 novels, including THANKSGIVING EVE (2016), SHADOW KNIGHT’S MATE, MILAGRO LANE, EXECUTIVE PRIVILEGE, ANGEL OF DEATH, LOCAL, and FADE THE HEAT (Edgar finalist, best mystery novel)