

COURT OF APPEALS, SIXTH APPELLATE DISTRICT OF TEXAS

Michael John Brumley v. The State of Texas

No. 06-22-00093-CR, Court of Appeals, Sixth Appellate District of Texas (December 20, 2022)

SUMMARY

The Sixth Court of Appeals of Texas found reversible error in the judgment convicting Michael John Brumley of a Class A misdemeanor for operating a motor vehicle while intoxicated. The court reversed the judgment and remanded with instructions to reform the conviction to a Class B misdemeanor and conduct a new punishment hearing.

CASE DETAILS

COURT	Court of Appeals, Sixth Appellate District of Texas
WRITING FOR THE COURT	Josh R. Morriss, III, Chief Justice; Justice Stevens; Justice van Cleef
JURISDICTION	Texas
DECIDED	December 20, 2022
DOCKET	06-22-00093-CR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Brumley appealed a County Court of Burleson County judgment convicting him of the Class A misdemeanor offense of operating a motor vehicle while intoxicated.
PRECEDENTIAL VALUE	Published opinion; the provided text identifies the decision as a memorandum opinion but does not state its precedential designation.
PARTIES	Michael John Brumley v. The State of Texas

TOPICS

- criminal procedure
- appellate procedure
- sentencing
- remedies

PRACTICE AREAS

- criminal procedure
- criminal sentencing
- appellate remedies

QUESTIONS PRESENTED

1. Whether reversible error required reversal of the judgment convicting Brumley of Class A misdemeanor operating a motor vehicle while intoxicated.

2. What relief was appropriate after the reversible error, including whether the conviction should be reformed to a Class B misdemeanor and a new punishment hearing conducted.

HOLDINGS

1. The trial court's judgment convicting Brumley of Class A misdemeanor operating a motor vehicle while intoxicated was affected by reversible error and could not stand.
2. The judgment was to be reformed to reflect a conviction for the Class B misdemeanor offense of operating a motor vehicle while intoxicated, followed by a new punishment hearing attendant to the reformed conviction.

KEY QUOTATIONS

“we reverse the trial court’s judgment convicting Brumley of the Class A misdemeanor offense of operating a motor vehicle while intoxicated. We remand the cause to the trial court with instructions to reform the judgment of conviction to reflect a conviction of the Class B misdemeanor offense of operating a motor vehicle while intoxicated and to conduct a new punishment hearing attendant to the post-reformation conviction.”

FACTUAL BACKGROUND

The judgment states that Brumley was convicted in the County Court of Burleson County of operating a motor vehicle while intoxicated as a Class A misdemeanor. The appellate court determined that reversible error affected the judgment and directed that the conviction be reformed to a Class B misdemeanor, followed by a new punishment hearing.

PROCEDURAL HISTORY

The County Court of Burleson County entered a judgment convicting Brumley of Class A misdemeanor operating a motor vehicle while intoxicated. The Court of Appeals found reversible error, reversed the judgment, and remanded with instructions to reform the conviction to the Class B misdemeanor offense and conduct a new punishment hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reform the judgment of conviction to reflect a conviction for the Class B misdemeanor offense of operating a motor vehicle while intoxicated and conduct a new punishment hearing attendant to the post-reformation conviction.

OPINION

PER CURIAM.

Court of Appeals Sixth Appellate District of Texas JUDGMENT Michael John Brumley, Appellant Appeal from the County Court of Burleson County, Texas (Tr. Ct. No. 24,604). No. 06-22-00093-CR v. Memorandum Opinion delivered by Chief Justice Morriss, Justice Stevens and Justice The State of Texas, Appellee van Cleef participating.

As stated in the Court's opinion of this date, we find reversible error in the judgment of the court below. Therefore, we reverse the trial court's judgment convicting Brumley of the Class A misdemeanor offense of operating a motor vehicle while intoxicated.

We remand the cause to the trial court with instructions to reform the judgment of conviction to reflect a conviction of the Class B misdemeanor offense of operating a motor vehicle while intoxicated and to conduct a new punishment hearing attendant to the post-reformation conviction.

We note that the appellee, The State of Texas, pay all costs of this appeal. RENDERED DECEMBER 20, 2022 BY ORDER OF THE COURT JOSH R. MORRISS, III CHIEF JUSTICE ATTEST: Debra K. Autrey, Clerk