

COURT OF CRIMINAL APPEALS OF TEXAS

The State of Texas v. Grady Jack Barber

No. PD-0510-25 · No. PD-0510-25 · Decided April 16, 2026

SUMMARY

The Texas Court of Criminal Appeals held that the statutory phrase "presence or view" in warrantless-arrest provisions requires that the officer perceive the offense through one of the officer's senses and excludes an officer who arrived after the offense was complete. The court disavowed State v. Woodard to the extent it construed that requirement otherwise, reversed the Ninth Court of Appeals, and remanded for further proceedings. The opinions also discuss the execution of a blood-testing warrant, the Article 38.23 exclusionary rule, the objective-good-faith exception, and standing.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
WRITING FOR THE COURT	Parker, J.; Yeary, J.; Newell, J.; Walker, J.; McClure, J.; Finley, J.; Schenck, P.J.; Richardson, J.; Keel, J.
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	April 16, 2026
DOCKET	PD-0510-25
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed an interlocutory trial-court order granting Barber's motion to suppress blood-test results. The Ninth Court of Appeals reversed and remanded. On Barber's petition for discretionary review, the Court of Criminal Appeals reviewed whether an offense can occur within an officer's statutory presence or view when the officer did not actually perceive the offense and instead developed probable cause through a post-incident investigation.
STANDARD OF REVIEW	The appellate court views evidence in the light most favorable to the trial court's suppression ruling and defers to the trial court's resolution of historical facts and application-of-law-to-fact questions that turn on credibility and demeanor. Statutory construction is reviewed under the plain-meaning framework.
PRECEDENTIAL VALUE	Published precedential opinion of the Texas Court of Criminal Appeals
PARTIES	The State of Texas v. Grady Jack Barber

TOPICS

criminal procedure

statutory interpretation

suppression of evidence

exclusionary rule

appellate procedure

PRACTICE AREAS

Texas criminal procedure

search and seizure

statutory interpretation

suppression of evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether an offense occurs within an officer's statutory presence or view when the officer arrives after the offense is complete and develops probable cause through a post-incident investigation without personally perceiving the offense.
2. Whether *State v. Woodard* should be disavowed to the extent it can be read to eliminate or disregard the statutory presence-or-view requirement.
3. Whether the officer's authority to execute the blood-search warrant and the applicability of the Texas statutory exclusionary rule's standing and objective-good-faith provisions should be addressed by the Court of Criminal Appeals or on remand.

HOLDINGS

1. When a warrantless-arrest statute requires that an offense occur within an officer's presence or view, the requirement is not satisfied merely because the officer later develops probable cause through a post-incident investigation. The officer must have perceived the offense through one of his senses, and an officer who arrived after the offense was complete did not observe the intoxication manslaughter, DWI, or public-intoxication offenses on this record.
2. *State v. Woodard* is disavowed to the extent it can be read to hold that the statutory presence-or-view requirement does not mean what its text literally says.
3. The Court declined to decide whether Barber had standing under Article 38.23(a) or whether Article 38.23(b)'s objective-good-faith exception applies, leaving those issues for the court of appeals on remand.

KEY QUOTATIONS

“The obvious answer to these two questions is “no,” but the court of appeals said “yes.”” (at 2)

“And whatever else the “presence or view” language might mean, it plainly appears to exclude an officer who did not perceive the offense through one of his five senses and did not arrive at the scene until after the offense was complete and no longer being committed.” (at 12-13)

“At least where, as here, the statute in question requires that the offense occur in the officer’s presence or view, the statutory language cannot support the idea that a non-officer’s observance of a crime can be imputed to an officer to satisfy that requirement.” (at 15)

“Consequently, we disavow Woodard to the extent it suggests that the “presence or view” language does not mean what it literally says.” (at 29-30)

FACTUAL BACKGROUND

A witness saw Barber consume alcohol at a bar, drive away, and collide with another vehicle, killing its driver. Officer E.L. Ibarra arrived about forty minutes after the collision, did not observe the crash or Barber operating the vehicle, and interviewed the witness; the record did not establish that Ibarra even saw Barber at the scene or hospital. Ibarra obtained a blood-search warrant from a Liberty County judge, and the warrant was executed at a Harris County hospital by drawing and testing Barber's blood. The trial court found probable cause for issuance of the warrant but concluded that the officer lacked statutory authority to execute it because the relevant offenses had not occurred within his presence or view.

PROCEDURAL HISTORY

After Barber was indicted for intoxication manslaughter, the trial court granted his motion to suppress the results of a blood test obtained under a search warrant. The State brought an interlocutory appeal under Texas Code of Criminal Procedure article 44.01(a)(5). The Ninth Court of Appeals reversed, relying substantially on *State v. Woodard*, and held that the officer had authority to arrest Barber in Harris County and therefore execute the blood warrant. The Court of Criminal Appeals reversed the court of appeals and remanded for consideration of unresolved issues, including the State's objective-good-faith argument.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the Ninth Court of Appeals for further proceedings consistent with the opinion, including consideration of the State's unresolved objective-good-faith argument and any other properly presented Article 38.23 issues.

CASES CITED

- *State v. Barber*, No. 09-24-00313-CR, 2025 WL 1749999 (Tex. App.—Beaumont June 25, 2025)
- *State v. Woodard*, 341 S.W.3d 404 (Tex. Crim. App. 2011)
- *State v. Steelman*, 93 S.W.3d 102, 107 (Tex. Crim. App. 2002)
- *Beverly v. State*, 792 S.W.2d 103, 104-06 (Tex. Crim. App. 1990)
- *Russell v. State*, 37 Tex. Crim. 314, 317 (1897)
- *State v. Martinez*, 569 S.W.3d 621, 625-30 (Tex. Crim. App. 2019)
- *State v. Espinosa*, 666 S.W.3d 659, 667-68 (Tex. Crim. App. 2023)
- *Denton v. State*, 911 S.W.2d 388 (Tex. Crim. App. 1995)
- *Barnes v. State*, 824 S.W.2d 560, 562 (Tex. Crim. App. 1991)
- *Proctor v. State*, 967 S.W.2d 840 (Tex. Crim. App. 1998)

- State v. Mercado, 972 S.W.2d 75, 78 (Tex. Crim. App. 1998)
- Osorio-Lopez v. State, 663 S.W.3d 750, 757 (Tex. Crim. App. 2022)
- McClintock v. State, 444 S.W.3d 15, 20-21 (Tex. Crim. App. 2014)
- Contreras v. State, 312 S.W.3d 566, 574 n.17 (Tex. Crim. App. 2010)
- Whatley v. State, 946 S.W.2d 73, 76 n.6 (Tex. Crim. App. 1997)
- In re Green, 713 S.W.3d 843, 853-56 (Tex. Crim. App. 2025)
- Milton v. State, 721 S.W.3d 300, 303, 306 (Tex. Crim. App. 2025)
- Guzman v. State, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997)
- Sandoval v. State, 665 S.W.3d 496, 515 (Tex. Crim. App. 2022)
- State v. Lujan, 634 S.W.3d 862, 865 (Tex. Crim. App. 2021)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/texas-court-of-criminal-appeals-court-of-criminal-appeals-of-texas/2026/the-state-of-texas-v-grady-jack-barber-d8di2jx0>