

TEXAS COURT OF CRIMINAL APPEALS

Dewan Morgan v. The State of Texas

Morgan · No. PD-0758-15 · Decided November 9, 2015

SUMMARY

This document is the appellant’s brief on the merits in Dewan Morgan v. State of Texas, filed in the Texas Court of Criminal Appeals. The brief argues that the evidence was legally insufficient to support Morgan’s burglary-of-a-habitation conviction because he qualified as an owner or co-tenant and his consent to enter the residence was not effectively revoked. It asks the court to affirm the Second Court of Appeals’ judgment vacating the burglary conviction and retaining the lesser-included assault conviction.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
JURISDICTION	Texas
DECIDED	November 9, 2015
DOCKET	PD-0758-15
PROCEDURAL POSTURE	Appellant's brief on the merits in a Texas Court of Criminal Appeals discretionary-review proceeding.
STANDARD OF REVIEW	Legal-sufficiency review of the evidence supporting the burglary conviction; the brief argues that the evidence was legally insufficient.
PRECEDENTIAL VALUE	Not applicable; the document is an appellant's brief rather than a judicial opinion.
PARTIES	Dewan Morgan v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- statutory interpretation
- real estate
- preservation of error

PRACTICE AREAS

- Texas criminal law
- burglary of a habitation
- criminal statutory interpretation
- criminal appellate procedure
- property and tenancy

QUESTIONS PRESENTED

1. Whether, in a burglary-of-a-habitation case, courts must use property law and related law to determine who qualifies as an owner under the Texas Penal Code.
2. Whether a live-in boyfriend's consent to enter a residence was revoked when the complainant temporarily locked the door, and whether the evidence was legally sufficient to prove entry without the effective consent of the owner.

KEY QUOTATIONS

“Furthermore, in order to revoke that consent, his legal ability to live there would have to at least be communicated to him.” (16)

FACTUAL BACKGROUND

The complainant invited Morgan, her boyfriend, to live with her in an apartment and gave him a key. Morgan lived there for months, paid some household expenses, kept belongings there, and was not listed on the lease, while the complainant paid the rent. On June 20, 2013, after an argument, the complainant locked the apartment's deadbolt to prevent Morgan from entering, but testified that she intended only a cooling-off period and did not intend to terminate his residence. Morgan attempted to enter with his key, broke a window, kicked in the door, entered, and assaulted the complainant.

PROCEDURAL HISTORY

Morgan was convicted in the Denton County District Court of burglary of a habitation and sentenced to twelve years' imprisonment. The Second Court of Appeals at Fort Worth held the evidence legally insufficient to support the burglary conviction, vacated that conviction, and affirmed a conviction for the lesser-included offense of assault. The State petitioned the Texas Court of Criminal Appeals for discretionary review, which was granted. This document is Morgan's brief urging affirmance of the court of appeals.

CASES CITED

- Boykin v. State, 818 S.W.2d 782 (Tex. Crim. App. 1991)
- Lanford v. Fourteenth Court of Appeals, 847 S.W.2d 581 (Tex. Crim. App. 1993)
- Allen v. State, 11 S.W.3d 474 (Tex. App.—Houston [1st Dist.] 2000), *aff'd*, 48 S.W.3d 775 (Tex. Crim. App. 2001)
- Azeez v. State, 248 S.W.3d 182 (Tex. Crim. App. 2008)
- Carranza v. State, 960 S.W.2d 76 (Tex. Crim. App. 1998)
- Black v. State, 505 S.W.2d 821 (Tex. Crim. App. 1974)
- Porter v. State, 873 S.W.2d 729 (Tex. App.—Dallas 1994)
- Roberts v. State, 963 S.W.2d 894 (Tex. App.—Texarkana 1998)
- Krause v. State, 243 S.W.3d 95 (Tex. App.—Houston [1st Dist.] 2007, *pet. ref'd*)
- Dominguez v. State, 355 S.W.3d 918 (Tex. App.—Fort Worth 2011, *pet. ref'd*)
- Mack v. State, 928 S.W.2d 219 (Tex. App.—Austin 1996)

