

TEXAS COURT OF CRIMINAL APPEALS

Skief v. State

Skief · No. PD-0655-15 · Decided November 23, 2015

SUMMARY

This document is a pro se motion for rehearing filed by Tiwian Laquinn Skief in the Texas Court of Criminal Appeals in cause number PD-0655-15. It challenges the refusal of discretionary review and raises issues concerning the sufficiency of the evidence, the testimonial nature of a statement under the Confrontation Clause, and the excited-utterance exception.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
JURISDICTION	Texas
DECIDED	November 23, 2015
DOCKET	PD-0655-15
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner's motion for rehearing following the Texas Court of Criminal Appeals' refusal of his petition for discretionary review on November 4, 2015.
PRECEDENTIAL VALUE	Nonprecedential procedural filing; the supplied document is a petitioner's motion for rehearing rather than a court opinion.
PARTIES	Tiwian Laquinn Skief v. The State of Texas

TOPICS

appellate procedure criminal procedure hearsay sixth amendment evidence

PRACTICE AREAS

criminal appellate procedure criminal evidence constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether the record contains evidence that the petitioner sought out or approached the complainant, as relevant to the petitioner's first appellate issue.

2. Whether Riketta Johnson's statement to Barbara Castro was testimonial notwithstanding its asserted qualification as an excited utterance.
3. Whether Texas courts may limit the constitutional definition of a testimonial statement to statements made to law-enforcement-based agencies.

KEY QUOTATIONS

“The Petitioner lacks this one main element.” (1)

“the fact that the statement also qualifies as an excited utterance, will not alter Riketta's testimonial nature!”
(2)

“The Petitioner contends that the State should not be allowed to limit the definition of Testimonial to law enforcement based agencies only.” (3)

FACTUAL BACKGROUND

The motion concerns the admissibility and testimonial character of statements by Riketta Johnson to Barbara Castro, a manager at a strip club. The petitioner contends that Johnson's statement was made while under stress but was nevertheless testimonial because Johnson understood the broader significance of her words. The motion also disputes an asserted finding that the petitioner sought out or approached the complainant.

PROCEDURAL HISTORY

The document seeks rehearing of the refusal of a petition for discretionary review in Texas Court of Criminal Appeals cause number PD-0655-15. The underlying matter included a Fifth District Court of Appeals case, cause number 05-12-00223-CR, and trial-court cause number F10-35936-L. The motion asks the court to grant rehearing and request briefing on the merits.

DISPOSITION

other

CASES CITED

- Lee v. State, 259 S.W.3d 785 (Tex. App.—Houston [1st Dist.] 2007)
- Fink v. State, 97 S.W.3d 739 (Tex. App.—Austin 2003)
- Bumguardner v. State, 963 S.W.2d 171 (Tex. App.—Waco 1998)
- United States v. Brito, 427 F.3d 53, 61–62 (1st Cir. 2005)
- Wall v. State, 184 S.W.3d 730, 742–43 (Tex. Crim. App. 2006)
- McCarty v. State, 227 S.W.3d 415, 418 (Tex. App.—Texarkana 2007)
- Crawford v. Washington