

COURT OF CRIMINAL APPEALS OF TEXAS

Larry DeWitt Jackson, Jr. v. The State of Texas

No. PD-0451-24 · No. PD-0451-24 · Decided December 19, 2025

SUMMARY

This is a dissenting opinion by Judge Finley of the Texas Court of Criminal Appeals in Larry DeWitt Jackson, Jr. v. The State of Texas. The dissent argues that trial counsel’s complete failure to participate during the punishment phase constituted constructive denial of counsel under United States v. Cronic and Cannon v. State, requiring a presumption of prejudice. The dissent would reverse the court of appeals’ judgment and remand for a new punishment trial.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
WRITING FOR THE COURT	Finley, J.
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	December 19, 2025
DOCKET	PD-0451-24
DISPOSITION	other
PROCEDURAL POSTURE	Appellant petitioned the Court of Criminal Appeals of Texas for discretionary review of a decision from the Fourteenth Court of Appeals concerning the effectiveness of trial counsel during the punishment phase of trial.
STANDARD OF REVIEW	The dissent analyzes the ineffective-assistance claim under Strickland v. Washington and the constructive-denial framework of United States v. Cronic. Under Cronic, when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, prejudice is presumed.
PRECEDENTIAL VALUE	published dissenting opinion; nonbinding
PARTIES	Larry DeWitt Jackson, Jr. v. The State of Texas

TOPICS

- ineffective assistance
- right to counsel
- sixth amendment
- sentencing
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

ineffective assistance of counsel

appellate procedure

sentencing

QUESTIONS PRESENTED

1. Whether defense counsel's near-total refusal to participate in the punishment phase of trial constituted a constructive denial of the effective assistance of counsel under *United States v. Cronic*.
2. Whether prejudice should be presumed when counsel entirely fails to subject the prosecution's punishment-phase case to meaningful adversarial testing.

HOLDINGS

1. The dissent would hold that counsel's conduct during the punishment phase constituted a constructive denial of the effective assistance of counsel because counsel entirely failed to subject the prosecution's case to meaningful adversarial testing, abandoned the role of advocate, and caused the proceeding to lose its character as a confrontation between adversaries.
2. The dissent would hold that prejudice was legally presumed because counsel's performance fell within *Cronic*'s constructive-denial category.

KEY QUOTATIONS

"But if the process loses its character as a confrontation between adversaries, the constitutional guarantee is violated." (JACKSON DISSENT — 2)

"Because defense counsel "although physically present in the courtroom at all the requisite times, effectively boycotted" the proceedings and "entirely failed to subject the prosecution's case to meaningful adversarial testing," he "abandoned his role as advocate" and "caused the trial to lose its character as a confrontation between adversaries."" (JACKSON DISSENT — 4)

"Appellant's trial counsel "entirely failed to subject the prosecution's case to meaningful adversarial testing," "abandoned his role as advocate" and "caused the trial to lose its character as a confrontation between adversaries."" (JACKSON DISSENT — 6)

FACTUAL BACKGROUND

Immediately before the punishment phase of Jackson's trial, defense counsel stated that he was not ready to proceed because the court had denied funds to employ and consult with a mitigation specialist. After the court denied the renewed funding request and continuance, counsel declined to participate meaningfully in the punishment hearing. Counsel made no opening statement, did not invoke the Rule, made no new objections or objections to the State's reoffered guilt-innocence evidence, declined to participate after the State's witness testified, and made no closing argument.

PROCEDURAL HISTORY

The case reached the Court of Criminal Appeals of Texas on Jackson's petition for discretionary review from the Fourteenth Court of Appeals in Washington County. The dissent would have reversed the court of appeals and

remanded for a new punishment trial, but the dissent states that the Court instead improvidently granted the petition and rejected the meritorious claim.

DISPOSITION

other

REMAND INSTRUCTIONS

The dissent would reverse the judgment of the court of appeals and remand the case for a new punishment trial.

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- United States v. Cronin, 466 U.S. 648 (1984)
- Cannon v. State, 252 S.W.3d 342 (Tex. Crim. App. 2008)

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