

TEXAS COURT OF CRIMINAL APPEALS

Sims, Gary Eugene v. The State of Texas

Sims v. State · No. 05-15-00685-CR · Decided August 13, 2015

SUMMARY

This document is a petition for discretionary review filed by Gary Eugene Sims in the Texas Court of Criminal Appeals. It challenges the Fifth District Court of Appeals' dismissal of his appeal for want of jurisdiction following his conviction for aggravated sexual assault and life sentence. The petition asserts errors concerning jurisdiction, an evidentiary hearing, preservation of error, and the presentation of evidence.

CASE DETAILS

|                    |                                                                                                                                    |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | Texas Court of Criminal Appeals                                                                                                    |
| JURISDICTION       | Texas                                                                                                                              |
| DECIDED            | August 13, 2015                                                                                                                    |
| DOCKET             | 05-15-00685-CR                                                                                                                     |
| PROCEDURAL POSTURE | Petition for discretionary review challenging the Fifth Court of Appeals' dismissal of a criminal appeal for want of jurisdiction. |
| STANDARD OF REVIEW | Abuse of discretion, as asserted in the petition regarding the court of appeals' dismissal for want of jurisdiction.               |
| PRECEDENTIAL VALUE | Not established from the provided document; the source is a petition for discretionary review rather than a court opinion.         |
| PARTIES            | Gary Eugene Sims v. The State of Texas                                                                                             |

TOPICS

- appellate procedure
- appellate jurisdiction
- preservation of error
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure

QUESTIONS PRESENTED

- Whether the Fifth Court of Appeals abused its discretion by dismissing Sims's appeal for want of jurisdiction.

2. Whether Texas Rule of Appellate Procedure 44.10 required the appellate court to direct the trial court to correct a preserved, remediable error that prevented proper presentation of the case on appeal.
3. Whether the alleged trial-court errors were remediable without requiring an entirely new trial.

#### **HOLDINGS**

1. Under Texas Rule of Appellate Procedure 44.10, when a trial-court action or failure to act prevents proper presentation of a case on appeal and the error can be remedied without requiring an entirely new trial, the appellate court must direct the trial court to correct the error.

#### **FACTUAL BACKGROUND**

A jury convicted Gary Eugene Sims of aggravated sexual assault and assessed punishment at life imprisonment. The petition alleges that trial-court errors prevented proper presentation of the case on appeal, including alleged failures involving evidentiary proceedings, findings, appointment or denial of counsel, constitutional rights, and discovery. The Fifth Court of Appeals dismissed the appeal for want of jurisdiction.

#### **PROCEDURAL HISTORY**

A jury convicted Sims of aggravated sexual assault and assessed a life sentence. The Fifth Court of Appeals dismissed his appeal for want of jurisdiction. Sims filed this petition for discretionary review, arguing that the court of appeals abused its discretion and that the trial court committed remedial errors that prevented proper presentation of the case on appeal.

#### **CASES CITED**

- Thomas v. State, 23 S.W.3d 513 (Tex. Crim. App. 2000)

#### **INSTRUCTIONS FOR AN AI ASSISTANT**

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