

**Court of Criminal Appeals**  
**June 4, 2014**

***Ex Parte Coty***

No. WR-79,318-02

Case Summary written by Tarryn Johnson, Online Edition Editor.

HERVEY, J., delivered the opinion of the Court in which, ELLER, P.J., MEYERS, WOMACK, JOHNSON, KEASLER, COCHRAN, and ALCALA, JJ., joined. PRICE, J., concurred.

Applicant, Leroy Edward Coty was charged with possession with intent to distribute at least 400 grams of a controlled substance, but pled guilty to a lesser-included offense. After malfeasance of a laboratory technician who worked on Coty's case was discovered, this Court heard oral arguments for relief and issued a briefing order to the parties. In January of 2014, the Court set forth a new analytical framework to resolve claims of forensic technician misconduct. *See generally Ex parte Coty*, 418 S.W.3d 597 (Tex. Crim. App. 2014). This case was then remanded to habeas court for the new framework to apply the new principles consistent with the technician misconduct analysis. The habeas court recommended denial of relief.

Issues: (1) Did the State rebut the inference of falsity of the evidence used in Coty's case?

(2) Was the evidence material to Coty's conviction?

The Court of Criminal Appeals agreed with the habeas court and adopted its findings of fact and conclusions of law. In its prior opinion, the Court held that "when an applicant alleges a due process violation predicated upon the malfeasance of a forensic laboratory technician, an applicant's claim should be analyzed using a modified false-evidence analysis." Under the new analysis, the applicant can prevail by establishing an inference of falsity and that the "false" evidence was material to the applicant's conviction. If this burden is met and an inference of falsity has been established, then the burden rests on the State to rebut the inference of falsity by showing that the lab tech did not commit intentional misconduct in that particular applicant's case. Although the State can rebut an inference of falsity established by an applicant, the burden remains on the applicant at all times to prove that even if the evidence in question is false, the false evidence was also material to the applicant's conviction.

Here, the habeas court found that State successfully rebutted that the lab tech committed intentional misconduct in Coty's case and that even if misconduct occurred, the evidence was not material to Coty's conviction. The habeas court reasoned, in part, that the chain of custody of the evidence was consistent with the lab technician's worksheets, the drug exhibit's appearance was consistent when depicted in several different technician's photographs and videos, and the only large bulk cocaine case for which the

lab technician generated a report for on the day in question was for Coty's drug exhibit. Additionally, the habeas court found that Coty failed to establish by a preponderance of the evidence that intentional misconduct of the lab tech would have been material to his conviction because of the significant amount of evidence to support his guilt. Because the Court adopted all the findings of the habeas court, Coty's request for relief is denied.

### ***Ex Parte Jones***

No. PD-1158-13

Case Summary written by Tarryn Johnson, Online Edition Editor.

ALCALA, J., delivered the opinion of the Court in which K ELLER, P.J., WOMACK, JOHNSON, HERVEY, and COCHRAN, JJ., joined. PRICE and KEASLER, JJ., concurred. MEYERS, J., dissented.

Appellant, Richard Dewayne Jones, filed a pre-trial application for a writ of habeas corpus after being indicted for evading arrest with a motor vehicle under TEX. PENAL CODE § 38.04. Jones alleged that an amendment to the evading arrest statute was facially unconstitutional because it violated the "single-subject rule" of the Texas Constitution. Article III, Section 35 states that "no bill . . . shall contain more than one subject."

In 2011, following instances in south Texas where fleeing vehicles would throw tire-deflating devices at police cars during pursuit, the Texas Legislature added a provision to TEX. PENAL CODE § 38.04 that made use of tire-deflating devices during pursuit a third-degree felony. Similarly, in Senate Bill 1416, the Legislature added tire-deflating devices to the list of prohibited weapons under TEX. PENAL CODE § 46.01 and § 46.05. Appellant Jones challenges the amendment because one of its provisions elevates the range of punishment for first-time offenders who commit the offense of evading arrest with a motor vehicle. The lower court of appeals found that S.B. 1416 did not violate the "single-subject rule" of the Texas Constitution.

Issue: Did the court of appeals err in finding that Senate Bill 1416 did not violate the single-subject rule?

The Court held that Senate Bill 1416 provides for criminal penalties for offenses related to motor vehicles for the purpose of better protecting law enforcement and the public from actors who evade arrest, and therefore does not violate the single-subject requirement. For a bill to be considered as having a single subject, the provisions must relate, directly or indirectly, to the same general subject and have a mutual connection. *LeCroy v. Hanlon*, 713 S.W.2d 335, 337 (Tex. 1986). "A liberal construction will be applied in determining whether or not a statute violates Section 35 . . . and, where the provisions are germane in any degree, the law will be upheld." *Dellinger v. State*, 28 S.W.2d 537, 539 (Tex. Crim. App. 1930).

The Court reasoned that the provisions contained in Senate Bill 1416 had “a mutual connection in that their enactment was intended to better protect law enforcement and the public from actors who evade arrest.” The Court noted that the sponsoring author’s statement specifically stated that the intent of the bill was to protect police and the general public from drug runners in southern Texas from possessing and using tire-deflating devices. The enacted version of the bill provided penalties for the use of these devices while the assailant is attempting to evade law enforcement. The bill also elevated the punishment range for evading arrest with a motor vehicle and the elevated punishment applies to the offense while the actor is using a motor vehicle to flee.

Furthermore, “[t]he thrust of appellant’s primary complaint does not appear to be that there was an absence of a general subject or mutual connection, but rather that the purpose of the single-subject rule, to prevent log-rolling, was undermined in this case.” Regardless, the Court stated that the “appellant has failed to establish ‘log rolling’ or that the bill had ‘several subjects having no connection with each other in order to create a combination of various interests in support of the whole bill.’”

Lastly, the argument that a bill affects two different code sections was directly distinguished by the Court as being entirely different from the single-subject rule’s “encompassing two different subjects” language. As the Court explained, the Legislature is afforded wide latitude when voting to adopt certain amendments and the Court refused to speculate whether any individual provisions contained within legislative bills would be passed individually if they were not part of a larger piece of legislation.

The appellant, Jones, also urged the Court to consider the title of the bill in assessing whether the single-subject rule was violated. Again, the Court distinguished between the two by explaining that the title and subject requirements serve different purposes. Specifically, “[t]he purpose of the unity of subject requirement is to prevent log-rolling,” while “[t]he caption requirement’s purpose is to give notice of the title of the bill, not only to members of the legislature, but to the citizens at large[.]” Additionally, a 1986 amendment to Section 35 “retained the notice requirement, but placed the responsibility for its execution solely in the hands of the Legislature.” After this amendment, the Court will only examine the title of a bill for the limited purpose of considering whether it sheds any light on the general subject of a bill, not the sufficiency of the title. Here, the title of the bill describes it as “relating to a tire-deflation-device offense and evading-arrest-with-a-motor-vehicle offense and providing for criminal penalties.”

In sum, after considering each of appellant’s contentions, the Court concluded that Senate Bill 1416 was not unconstitutional for the reasons set forth above.