# Court of Criminal Appeals
# October 14, 2015

**Beltran v. State**
NO. PD-1076-14
Case Summary Written by Jonae Chavez, Staff Member.

JUDGE RICHARDSON delivered the opinion of a unanimous court.

On the night of the murder of Sheldon McKnight, Ramos, Beltran, and McKnight had been getting high and drinking Jack Daniels throughout the night. At some point in the evening, the three men went to McKnight's apartment and continued to consume more drugs. Later, McKnight came downstairs and sat on the couch next to Beltran, "stroked his face and told Beltran he was a 'pretty little thing.'" After resuming snorting heroin, Ramos and Beltran went upstairs because McKnight told them he was expecting company. Ramos later went back downstairs, leaving Beltran upstairs on the bed where he laid down and passed out with all of his clothes on.

Beltran testified that he was awakened by McKnight behind him and was now naked from the waist down, and McKnight was licking his anus. Beltran said that he panicked and tried to move, but McKnight jumped on top of him. At this point, Beltran was screaming in panic, not knowing what was going on. McKnight had Beltran's face down into the pillow trying to shut him up when all of a sudden Ramos was in the room and hit McKnight with something. Ramos attempted to pull Beltran from under McKnight when McKnight grabbed Ramos. Then, Beltran grabbed McKnight from behind and told Ramos to get some help.

Ramos started stabbing McKnight who was "kicking" and "reacting crazy." Beltran held McKnight tightly while Ramos continued to stab him to "protect" Ramos and himself from McKnight's reactions. After realizing McKnight was dead, Beltran, who was totally naked and covered in blood, just started to cry. Beltran testified to being totally shocked, freaking out, and extremely scared. The two men left McKnight's apartment in McKnight's car. Beltran denied that he intended to rob and kill McKnight, denied that he intended to help Ramos kill McKnight, and denied killing or stabbing McKnight.

Beltran was charged with capital murder. The jury was given a self-defense charge, but rejected the self-defense charge. Beltran requested an instruction on sudden passion but the trial court denied the instruction. The jury came back with a punishment of seventy years imprisonment—with the instruction of sudden passion; the punishment would have been capped at twenty years.

Issue: Did the trial court err in denying Beltran's request for an instruction on sudden passion?

First, the court analyzed whether Beltran was a criminally responsible party to the offense. "If the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both," then he is criminally responsible. The jury had to decide whether Beltran was guilty of causing the death of McKnight, either as acting as a party with Ramos who did the stabbing, or as the one who did the stabbing. Clearly, Beltran acted as a party with the primary actor who did the actual stabbing. Next, the court was faced with a unique question: whether Beltran's conduct—acting as a party to the offense—was under the influence of sudden passion, or if Ramos's conduct—the one who did the actual stabbing—was under the influence of sudden passion. Ultimately, the court found that "where the defendant is convicted as a party to the offence, the conduct of the primary actor is not relevant to whether the defendant acted deliberately."

Sudden passion is a mitigating factor that determines the appropriate punishment of the defendant. Therefore, it was Beltran's conduct by which "he act[ed] with intent to promote or assist the commission of the offense, and by which he encourage[d], aid[ed], or attempt[ed] to aid the other person to commit the offense that [wa]s determinative of whether he [was] entitled to a sudden passion instruction." The Court of Appeals held that Beltran's testimony showed that he was consciously aware of the danger McKnight posed and acted with thought, not in an excited or agitated state. However, courts must look for "some" evidence that a defendant acted with sudden passion—if there is at least some evidence, he is entitled to the instruction.

The Court of Criminal Appeals held that Beltran's testimony raised some evidence of sudden passion. First, Beltran reacted under the immediate influence of terror, anger, rage, or resentment. Second, Beltran's sudden passion was prompted by provocation by McKnight,

and that provocation could commonly produce this sort of passion in a person of ordinary temper. Third, Beltran committed the murder, as a party, before a cool reflection. Fourth, there was a causal connection between Beltran's passion, McKnight's provocation, and the homicide.

The Court of Criminal Appeals held that the lower courts erred in denying Beltran's request for a sudden passion instruction. There was evidence that Beltran acted under the immediate influence of terror. Although this evidence might have been weak, it was still enough to infer that Beltran acted under the immediate influence of terror.

The case was remanded for a harm analysis in accordance with *Almanza v. State*.

***Douds v. State***
PD-0857-14, 14-12-00642-CR
Case Summary written by Garrett Couts, Staff Member.

JUDGE ALCALA delivered the opinion of the court in which PRESIDING JUDGE KELLER, JUDGES JOHNSON, RICHARDSON and YEARY joined. JUDGES KEASLER, HERVEY and NEWELL concurred.

This case came before the Court of Criminal Appeals of Texas for discretionary review from the Fourteenth Court of Appeals Brazoria County. The issue before the court pertained to whether "isolated statements globally asserting that a blood draw was conducted without a warrant" properly "apprise[d] the trial court" that a consideration of exigent circumstances to justify a warrantless search was at issue. This deliberation was made in consideration of the fact that "the entire record in [the] motion to suppress refer[ed] to a different complaint[.]" The court reversed the Fourteenth Court of Appeals and affirmed the trial court's conviction of the appellant.

Officer Tran of the Pearland Police Department determined that the appellant, Kenneth Lee Douds, was intoxicated upon the completion of field sobriety testing after a vehicle collision around 2:30 a.m. Douds and his wife, Christen, were following the vehicle in front of them, carrying their friends, after leaving a party. Douds's vehicle collided with his friend's, causing injury to his wife. Christen refused to be transported to a hospital by the Emergency Medical Service personnel at the scene. The driver of the other vehicle stated to Officer Tran,

"We're taking her," leading him to believe that she would be taken for medical attention and treatment.

After Douds was arrested for driving while intoxicated, he was taken to a police station and asked to provide a breath sample, but refused to do so. Officer Tran, asserting authority under Texas Transportation Code §724.012(b)(1)(C), then took a mandatory blood sample.

Douds filed two motions to suppress; one in reference to the blood sample taken pursuant to the statute, and the other in reference to his seizure and the suppression of tests, videotapes, and statements. The second motion was ultimately limited by the appellant's counsel to the oral statements made by the defendant and was not an issue brought before the Court of Criminal Appeals. The first motion, and the questioning at the evidentiary hearing, focused upon whether Officer Tran was reasonable in believing that Christen had been injured, transported for medical treatment, and that her injury was caused by the collision. The trial court denied both of Douds's motions, but certified the right to appeal the denials. Douds, pursuant to a plea agreement, pleaded guilty to the Class B misdemeanor DWI. No written findings of fact or conclusions of law were made or submitted.

On appeal, Douds asserted two challenges: "(1) the statutory requirements for a mandatory blood draw had not been met because Christen was not injured and did not seek medical treatment," and "(2) the mandatory-blood-draw statute, as applied to him, had resulted in a warrantless seizure of his blood in violation of the Fourth Amendment." The Fourteenth Court of Appeals first affirmed Douds's conviction, but upon an en banc rehearing, vacated the judgment. The court determined there were "no exigent circumstances that justified the warrantless taking of appellant's blood." Thus, the blood sample was in violation of the Fourth Amendment. The appellate court confirmed that Officer Tran was reasonable in his belief that Christen was transported for medical treatment, and that determination did not come before the Court of Criminal Appeals. However, reversing Douds's conviction, the appellate court also determined that Douds had preserved his Fourth Amendment complaint "[b]ecause both the State and the trial court were made aware that appellant's complaint pertained to a warrantless search in violation of the Fourth Amendment." This was the primary issue brought before the Court of Criminal Appeals.

The Court of Criminal Appeals determined that Douds's "isolated statements globally asserting that a blood draw was conducted without a warrant" were not sufficient to either inform the trial court of the need to consider exigent circumstances in justifying a warrantless search or to preserve the issue for appeal according to Texas Rule of Appellate Procedure 33.1(a). The rule requires that a complaint be described "with sufficient specificity to make the trial court aware of the complaint, unless the specific grounds were apparent from the context[,]" to be preserved. The court considered the entire record before it, and found that the evidentiary hearing focused solely upon the statutory requirements of Texas Transportation Code § 724.012(b)(1)(C), and that a Fourth Amendment argument was only mentioned in the hearing for purposes of arguing for a narrow construction of the statutory language—not as an independent argument of a Fourth Amendment violation by Officer Tran. The court stated: "[N]othing about appellant's counsel's arguments indicated that appellant was further challenging the constitutionality of the search based on the fact that it had been conducted without a warrant." In fact, the court found no mention of a warrant or warrant issue in the record. Douds's brief indicated to the court that he conceded the validity of the statue as an "implied consent law" and that he was solely arguing that the statutory requirements had not been satisfied as to justify Officer Tran's actions in taking the blood sample. Thus, the court found "the only real question for the trial court to resolve was whether the statutory terms applied to appellant's case."

In short, the court found that because Douds had conceded that the statute could validate the actions of an officer without presenting an aversion to the Fourth Amendment, and challenged only the applicability of the statute to his particular situation, the trial court was not properly notified of a challenge under the Fourth Amendment or that exigent circumstances – other than those provided by the statute – should be considered in justifying Officer Tran's actions. The Fourth Amendment complaint was not properly preserved, and thus the Fourteenth Court of Appeals was reversed and the trial court's conviction of Douds was affirmed.

JUDGE MEYERS, dissenting.

The dissenting opinion by Judge Meyers argued that the burden rested upon the State to establish the blood draw was reasonable, not for Douds to show it to be unreasonable. In addition, Judge Meyers argued that simply because the evidentiary hearing focused upon Texas Transportation Code § 724.012, that did not determine that Douds had abandoned a claim under Fourth Amendment principles.