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Court hears appellate arguments at St. Mary's

By: T.A. Badger (Associated Press)

Posted: 9/19/03

SAN ANTONIO - The Texas Court of Criminal Appeals convened Thursday on a law school campus to listen to appellate arguments in a pair of Bexar County cases, one of them involving a capital-murder conviction.

The two-hour appearance at the St. Mary's University School of Law is believed to be one of the rare instances in which the court has ventured away from its Austin chambers to show other parts of the state how it works.

"Less than 3 percent of the people of Texas know what the Court of Criminal Appeals does," Judge Barbara Hervey said.

The court, made up of nine judges, is the state's highest appeals court for criminal cases.

All seats in the St. Mary's lecture hall were filled for the hearings, with some students and others outside in the lobby.

Amanda Garza, a law student at St. Mary's, admitted she didn't catch all of the technical legal points made during oral arguments but said watching the procedures in person was worthwhile.

"There's a lot of stuff you don't get to see," Garza said. "It's nice that it's accessible."

One of the cases sought a new trial for Reginald Blanton, who was sentenced to death for the April 2000 robbery and slaying of a reputed San Antonio drug dealer.

Attorney Suzanne Kramer, representing Blanton, argued that her client's conviction should be overturned because the jury was not given the choice of finding Blanton guilty of a lesser form of murder than the capital offense.

The state's attorney, Mary Beth Welsh, countered that the killing was committed during commission of a felony, which automatically moved it into the realm of capital murder, and that the defense offered no real evidence to refute that.

The other case heard was the state's request that a lower appeals court ruling in a 1999 drunken-driving case be reversed.

Dawn Stewart was convicted of DWI after a pair of breath tests showed that her blood-alcohol level was well above 0.1 percent, the legal standard at the time. The tests were administered more than an hour after Stewart was stopped for driving erratically.

The San Antonio-based Fourth Court of Appeals, however, ruled in January that breath-test results are inadmissible in court without "retrograde extrapolation" analysis to determine blood-alcohol level at the precise moment a driver is pulled over.

Since that ruling, hundreds of DWI cases have been on hold in San Antonio and the surrounding region governed by the court.

Kerrisa Chelkowski, for the state, contended that the DWI law's intent was not to place such a heavy burden on police and that the court's conclusion is out of step with other Texas jurisdictions.

Defense lawyer Stephanie Stevens said an exact intoxication level at the time of an offense must be provided to juries to keep them from trying to make the complex calculations on their own.

The court did not issue immediate rulings in either case.

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