



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. PD-0729-14

GILBERT TAPIA, JR., Appellant

v.

THE STATE OF TEXAS

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE THIRTEENTH COURT OF APPEALS
BEE COUNTY**

JOHNSON, J., filed a concurring opinion.

C O N C U R R I N G O P I N I O N

Because of the unusual circumstances of this case, I concur in the judgment of the Court. However, I urge prosecutors to heed the opinion of the court of appeals when it said that the state had the option of moving to dismiss its motion to revoke and then refiling the motion with the newly alleged, but previously known, violations. "Had the State followed this procedure, appellant's due process rights would not have been violated." *Tapia v. State*, 2014 WL 1789207 at *6. The trial court could have refused to allow, and appellant could have objected to, such an option, but the state would be in a stronger position by offering that option.