



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

NO. PD-0332-17

LEANDRA M. SALINAS, Appellant

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FOURTH COURT OF APPEALS
KARNES COUNTY

Per curiam.

OPINION

Appellant was convicted of misdemeanor possession of a substance in Penalty Group 2-A. See Tex. Health & Safety Code, §§ 481.1161, 481.1031(b)(2). In accord with a plea

bargain, Appellant was placed on deferred adjudication community supervision for twelve months and fined \$50. Appellant appealed the trial court's denial of her motion to suppress. The Court of Appeals reversed the conviction, finding the trial court erred to deny the motion to suppress based on the officer's failure to inform Appellant of her rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). *Salinas v. State*, No. 04-16-00247-CR (Tex.App. – San Antonio March 15, 2017). The court held that Appellant's statements to the officer, and the drugs found as a result of her statements, should have been suppressed as the products of an unwarned custodial interrogation.

The State has filed a petition for discretionary review challenging the Court of Appeals' decision on two grounds. First, the State disputes that Appellant was in custody at the time she made the contested statements. Second, the State contends that even if the Court of Appeals is correct in its custody determination, the court erred to suppress the drugs, which were physical fruits of any unwarned custodial statement, based on *United States v. Patane*, 542 U.S. 630 (2004)(plurality opinion); and *Baker v. State*, 956 S.W.2d 19 (Tex. Crim. App. 1997).

The Court of Appeals did not address the applicability of *Patane* and *Baker* when concluding that the *Miranda* violation rendered the drugs suppressible. Accordingly, we

grant ground two of the State's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals to consider whether the drugs, as physical fruits of Appellant's unwarned custodial statement, are required to be suppressed in light of *Patane* and *Baker*. Ground one of the State's petition for discretionary review is refused with prejudice.

Delivered September 13, 2017

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