



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

NO. PD-0839-11

JOHN BOZEMAN, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SIXTH COURT OF APPEALS
HOUSTON COUNTY**

Per curiam.

OPINION

The trial court found Appellant guilty of theft and assessed punishment at 18 months' confinement in a state jail facility. The Court of Appeals affirmed the conviction. Bozeman v. State, 340 S.W.3d 515 (Tex. App. — Texarkana 2011). Appellant has filed a petition for discretionary review contending the Court of Appeals erroneously held the State was not

required to prove the theft was accomplished by deception, as alleged in the indictment. He argues there is insufficient evidence to support his conviction based on the State's failure to present evidence of deception.

This Court granted discretionary review in Geick in order to address whether the State was required to prove theft by deception where deception was alleged in the indictment. The Court answered the question in the affirmative, deciding that if an indictment uses a statutory definition to specify how a theft was committed, the State must prove the offense as charged in the indictment. Geick v. State, __S.W.3d__ (Tex. Crim. App. No. PD-1734-10, delivered October 5, 2011). The mandate issued on October 31, 2011. The Court of Appeals in the instant case did not have the benefit of our opinion in Geick. Accordingly, we grant Appellant's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals for further action in light of our opinion in Geick.

Delivered November 9, 2011
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