



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

NO. PD-1802-13

THE STATE OF TEXAS

v.

SHIRLEY COPELAND, Appellee

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

MEYERS, J., filed a dissenting opinion.

OPINION

The majority concludes that the court of appeals erred in determining that the State procedurally defaulted on its consent argument for not showing the consent was given freely and voluntarily. However, the State did have the burden to show that Danish's consent was free and voluntary and it did not do so. Because the State did procedurally default this argument, I believe that the court of appeals decided the case correctly.

As demonstrated by the multiple remands of this case, it is clear the majority is just

trying to find a defibrillator it can hook up to the court of appeals to shock it into finding a heartbeat to support reversal of the trial court's grant of this motion to suppress. It seems to me, however, that the coroner has already put a toe tag on this case and we are just wasting judicial resources by trying to avoid the correct conclusion that the evidence was validly suppressed. Had the roles in this case been reversed, and it was Appellee seeking review of the court of appeals' decision, Appellee's issues would have been long ago dispatched to the funeral home to be buried alive.

For the reasons stated above, I would affirm the decision of the court of appeals and, therefore, I respectfully dissent.

Meyers, J.

Filed: October 22, 2014

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