



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1372-18

THE STATE OF TEXAS

v.

JOHN PHILLIP COUCH, II, Appellee

ON APPELLEE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE THIRD COURT OF APPEALS
COMAL COUNTY

Per curiam.

OPINION

Appellee was charged with intoxication assault and aggravated assault with a deadly weapon. The trial court granted his motion to suppress evidence obtained pursuant to a warrantless blood draw. The court of appeals reversed the trial court's ruling, holding that exigent circumstances justified the warrantless blood draw. *State v. Couch*, No. 03-16-00727-CR, 2018 WL 2648463 (Tex. App.—Austin June 5, 2018) (not designated for publication). Appellee has filed a petition for discretionary review contending that the court of appeals

applied an improper analysis and failed to give proper deference to the trial court's findings of fact.

This Court recently issued a decision in *State v. Garcia*, 569 S.W.3d 142 (Tex. Crim. App. 2018). In *Garcia*, we addressed the deference a reviewing court owes to a trial court's findings of fact and conclusions of law in cases involving claims of exigent circumstances. The Court of Appeals in the instant case did not have the benefit of our decision in *Garcia*. Accordingly, we grant Appellee's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals for reconsideration in light of the opinion in *Garcia*.

Delivered: May 8, 2019

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