



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. PD-0845-20

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**ROY OLIVER, Appellant**

v.

**THE STATE OF TEXAS**

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**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE FIFTH COURT OF APPEALS  
DALLAS COUNTY**

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**HERVEY, J., delivered the opinion of the unanimous Court. YEARY, J., filed a concurring opinion in which SLAUGHTER, J., joined.**

## OPINION

Appellant, Roy Oliver, a police officer, shot a teenager leaving a high-school party with his brothers and some friends. Appellant was convicted of murder, sentenced to 15 years' confinement, and fined \$10,000. Following the shooting, Appellant gave a statement to an internal affairs investigator after he was told that he could be fired if he did not. In *Garrity v. New Jersey*, 385 U.S. 493, 500 (1967), the Supreme Court held that

statements of police-officer defendants given on threat of employment termination are involuntary and that use of those statements by the prosecution violated the defendant officers' right against self-incrimination. *Id.* Appellant argued at trial that the initial burden was with the State, but the trial court disagreed. The court of appeals affirmed the ruling of the trial court in an unpublished opinion. Appellant filed a petition for discretionary review, which we granted, asking us who bears the burden to demonstrate that a *Garrity* statement was not used in any way by the prosecution. Having considered the parties' briefs and the record, however, we conclude that our decision to grant review was improvident. We therefore dismiss Appellant's petition for discretionary review as improvidently granted.

Delivered: June 22, 2022

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