



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

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**NO. PD-0042-13**

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**EX PARTE D'ANATE LEE SHAW, Appellant**

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**ON STATE'S PETITION FOR DISCRETIONARY REVIEW  
FROM THE SECOND COURT OF APPEALS  
WICHITA COUNTY**

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*Per curiam.*

**ORDER**

Appellant filed a writ of habeas corpus seeking pretrial release pursuant to article 17.151 because the State was not ready for trial within 90 days of the beginning of his detention. The trial court denied relief. The Court of Appeals reversed the ruling and remanded to the trial court. *Ex parte Shaw*, \_\_\_ S.W.3d \_\_\_ (Tex. App.—Fort Worth No. 02-12-00116-CR, delivered December 21, 2012). The State filed a petition for discretionary review on January 11, 2013.

On January 24, 2013, the Court of Appeals withdrew its opinion and issued another

opinion in its place. *Ex parte Shaw*, \_\_\_ S.W.3d \_\_\_ (Tex. App.—Fort Worth No. 02-12-00116-CR, delivered January 24, 2013). This second opinion is not permitted since Rule 50 of the Texas Rules of Appellate Procedure was abolished on July 12, 2011. Accordingly, when a petition for discretionary review is filed, the appellate court loses authority to issue an opinion. *See Garza v. State*, 896 S.W.2d 192, 195 (Tex. Crim. App. 1995).

The Court of Appeals' opinion issued on January 24, 2013, after the State had filed its petition for discretionary review. That opinion is not authorized by the Rules of Appellate Procedure and the court did not have jurisdiction to issue that opinion. *See id.* Therefore, the Court of Appeals' opinion issued on January 24, 2013, is ordered withdrawn, and the original judgment and opinion of the Court of Appeals that issued on December 21, 2012, is reinstated.

Additionally, we refuse the State's petition for discretionary review filed on January 11, 2013. We take no action on the State's amended petition received on February 25, 2013, since that petition addresses an opinion that has been ordered withdrawn.

Filed: March 20, 2013  
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