



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1067-11

JOSEPH MICHAEL ANDERSON, Appellant

v.

THE STATE OF TEXAS

ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SEVENTH COURT OF APPEALS
McLENNAN COUNTY

Per curiam.

OPINION

A jury found Appellant guilty of driving while intoxicated and the trial court assessed punishment at thirty years' imprisonment. The Court of Appeals affirmed the conviction. *Anderson v. State*, 341 S.W.3d 585 (Tex. App.—Amarillo 2011). Appellant has filed a petition for discretionary review contending the Court of Appeals erred in holding the trial

court did not abuse its discretion in refusing to allow defense counsel to question the jury panel about its understanding of the differences between the State's burden of proof beyond a reasonable doubt and the burdens of proof applicable in non-criminal cases.

This Court granted discretionary review in *Fuller*, in order to address this issue. We concluded that questioning regarding panelists' understanding of the differences between the criminal and civil burdens of proof was relevant to a legitimate defensive challenge for cause, and the trial court abused its discretion by refusing to allow questioning on the matter. *Fuller v. State*, __S.W.3d__ (Tex. Crim. App. No. PD-0779-11, delivered March 28, 2012), slip op. at 11-12. The mandate issued on April 23, 2012. The Court of Appeals in the instant case did not have the benefit of our opinion in *Fuller*. 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 consideration in light of our opinion in *Fuller*.

Delivered: May 16, 2012
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