



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

PD-1517-12

GREGORY THORNTON, Appellant

v.

THE STATE OF TEXAS

**ON STATE'S PETITION
FOR DISCRETIONARY REVIEW
FROM THE SEVENTH COURT OF APPEALS
LUBBOCK COUNTY**

The opinion was delivered per curiam.

O P I N I O N

Appellant was convicted of tampering with evidence and sentenced to forty-five years confinement. On appeal, appellant claimed the evidence was insufficient to support his conviction. The Court of Appeals agreed, held the evidence insufficient and reversed the trial court's judgment and entered a judgment of acquittal. *Thornton v. State*, No. 07-11-0069-CR slip op. (Tex. App.–Amarillo Aug. 7, 2012).

The State has filed a petition for discretionary review contending, in part, that the Court of Appeals should have considered whether the evidence was sufficient to support a conviction for the lesser-included offense of attempted tampering with evidence, and whether the judgment should be reformed accordingly.

When the Court of Appeals issued its opinion in this case, it did so without the benefit of this Court's recent opinion in *Bowen v. State*, 374 S.W.3d 427 (Tex. Crim. App. 2012), mandate issued September 24, 2012. Therefore, we vacate the judgment of the Court of Appeals and remand for that court to consider the effect of *Bowen*, if any, on its reasoning and analysis in this case.

DELIVERED: January 9, 2013
DO NOT PUBLISH