



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

**NO. PD-1809-10**

**THE STATE OF TEXAS**

**v.**

**SOUTCHAY SANAVONGXAY, Appellee**

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

**MEYERS, J., filed an opinion dissenting to the denial of the State's motion for rehearing.**

## **OPINION**

I would grant the State's motion for rehearing because I agree that an oral ruling, when it is clear and on the record, should be considered sufficient to allow the State to appeal. The trial court's refusal to enter a written order supporting an oral ruling interferes with the State's right to appeal under Code of Criminal Procedure article 44.01(a). The point of article 44.01(a)(5) is to allow the State to appeal a trial court's

decision to grant a motion to suppress, and the article does not require that an appealable order be in writing. Here, it is undeniable from the record that the trial court ruled to exclude the State’s DNA evidence. I would grant the State’s motion for rehearing and expand our holding in *State v. Rosenbaum*, 818 S.W.2d 398 (Tex. Crim. App. 1991) to include such rulings.

Meyers, J.

Filed: May 2, 2012

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