Affirmed in part; Vacated and Remanded in part; Opinion Filed March 30, 2016.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-15-00336-CR

No. 05-15-00337-CR

CHARLES ANTHONY WILLIAMS, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F11-49252-V & F11-49253-V

MEMORANDUM OPINION

Before Justices Fillmore, Myers, and Whitehill
Opinion by Justice Myers

Appellant Charles Anthony Williams was convicted by a jury of violating a civil commitment order by failing to charge his GPS tracking device and by causing damage to the device (the GPS case),[1] and by being discharged from his sex offender treatment program (the treatment case).[2] His punishment was assessed at two years' imprisonment in the GPS case and sixteen years in the treatment case, to run concurrently. In three issues, appellant argues the evidence is insufficient to support a conviction in the GPS case and the treatment case, and that the trial court erred by denying his motion to quash. The offense alleged in the indictment in the treatment case having been decriminalized, we vacate the judgment in that case and remand to

[1] Appeal Number 05-15-00336-CR, trial court cause number F11-49252-V

[2] Appeal Number 05-15-00337-CR, trial court cause number F11-49253-V

the trial court for dismissal of the indictment. We affirm the conviction in the GPS case.

DISCUSSION

I. The GPS Case

A Montgomery County jury on August 5, 2009, adjudged appellant to be a sexually violent predator. On that same day, the 435th Judicial District Court in Montgomery County entered a civil commitment order that required, among other things:

> 4) [appellant] shall exactingly participate in and comply with the specific course of treatment provided by the Council [on Sex Offender Treatment][3] and shall comply with all written requirements of the Council and case manager; and
>
> 5) [appellant] is required to submit to tracking under a global positioning satellite, GPS monitor, or other monitoring system provided; [appellant] shall not tamper with, alter, modify, obstruct or manipulate the GPS monitor frequency, and shall comply with all written monitor system requirements[.]

Appellant signed the judgment but refused to sign the civil commitment order. The order contains a note that it was read in its entirety to appellant on August 5, 2009.

Appellant was subsequently indicted for violating the terms of the order of commitment. The indictment in 05–15–00336–CR, the GPS case, alleged in part that on or about May 1, 2011, appellant did:

> then and there, being a person under outpatient civil commitment as a Sexually Violent Predator pursuant to the Order of Commitment, Cause Number 08–11–10820–CV, issued by the 435th Judicial District Court, Montgomery County, Texas, signed by the Court on August 5, 2009, intentionally and knowingly violate the requirements of the aforesaid order by repeatedly failing to charge defendant's Wearable Miniature Tracking Device and by causing damage to defendant's Wearable Miniature Tracking Device.

In 05–15–00337–CR, the treatment case, the indictment alleged in part that on or about August 22, 2011, appellant did:

[3] When he was civilly committed as a sexually violent predator in August of 2009, appellant was placed under the supervision of the Council on Sex Offender Treatment (CSOT). In 2011, after appellant's civil commitment but before his convictions in the instant case, the Legislature replaced the CSOT with the Office of Violent Sex Offender Management (OVSOM) as the agency responsible for supervising civilly committed sexually violent predators. *See* Act of May 23, 2011, 82nd Leg., R.S., S.B. 166, ch. 1201, §§ 3–19, 2011 Tex. Sess. Law Serv. 3199-3203.

> then and there, being a person under outpatient civil commitment as a Sexually Violent Predator pursuant to the Order of Commitment, Cause Number 08-11–10820–CV, issued by the 435th Judicial District Court, Montgomery County, Texas, and signed by the Court on August 5, 2009, intentionally and knowingly violate the requirements of the aforesaid order, to-wit: by being discharged from his sex offender treatment program.

The jury found appellant guilty of both charges, after which he pleaded "true" to the enhancement paragraph in each indictment. The State introduced punishment evidence that appellant had three prior convictions for aggravated sexual assault from April of 1991, for which he was sentenced to concurrent terms of twenty years' imprisonment. The jury assessed appellant's punishment at two years' imprisonment in the GPS case and sixteen years in the treatment case.

After appellant was convicted but before he filed his brief in this appeal, the Legislature passed S.B. 746, which overhauled the civil commitment statute. *See* Act of May 21, 2015, 84th Leg., R.S., S.B. 746, ch. 845, 2015 Tex. Sess. Law Serv. 2700 (effective on June 17, 2015). S.B. 746 revised the criminal statute under which appellant was prosecuted and made the changes applicable to an "offense committed before, on, or after the effective date of this Act," except for an offense that resulted in a "final conviction" that exists on the effective date of the Act. *See* Act of May 21, 2015, 84th Leg., R.S., S.B. 746, ch. 845, § 41, 2015 Tex. Sess. Law Serv. 2700, 2711. Appellant's convictions were not final on June 17, 2015, the effective date of the Act, and the statutory changes therefore applied to his case. *See Fletcher v. State*, 214 S.W.3d 5, 6 (Tex. Crim. App. 2007) ("[A] conviction from which an appeal has been taken is not considered to be a final conviction until the conviction is affirmed by the appellate court and that court's mandate of affirmance becomes final."); *Mitchell v. State*, 473 S.W.3d 503, 516–17 (Tex. App.—El Paso, no pet.) (concluding Legislature intended amendment to penal provision of the civil commitment statute, as set forth in the current version of section 841.085 of the Texas Health and Safety Code, to be applied retroactively to convictions pending on appeal at the time the amendment

went into effect). As a result, the revised version of the statute governs this appeal.

As revised, the statute provides that "[b]efore entering an order directing a person's civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community." TEX. HEALTH & SAFETY CODE ANN. § 841.082(a) (West Supp. 2015). Among other requirements, the court shall require the person to:

> A) submit to tracking under a particular type of tracking service and to any other appropriate supervision; and
>
> B) refrain from tampering with, altering, modifying, obstructing, or manipulating the tracking equipment[.]

Id. § 841.082(a)(4)(A), (B). Section 841.085(a) of the Texas Health and Safety Code states that "[a] person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082(a)(1), (2), (4), or (5)." *Id*. § 841.085(a) (West. Supp. 2015). Because section 841.085(a) does not contain a culpable mental state and does not clearly dispense with one, the Texas Penal Code requires that it be read to require intent, knowledge, or recklessness to establish criminal responsibility. *See* TEX. PENAL CODE ANN. § 6.02(c) (West 2011). The question then becomes what mental states apply to the offense and to what element they attach.

The Texas Court of Criminal Appeals' decision in *Robinson v. State*, 466 S.W.3d 166 (Tex. Crim. App. 2015), offers guidance regarding the mental state that should be applied to section 841.085(a). In *Robinson*, the question was what culpable mental state was required for article 62.102(a) of the code of criminal procedure, which states that a person commits the offense of failure to comply with sex-offender registration requirements "if the person is required to register and fails to comply with any requirement of [Chapter 62]." *Id*. at 170. Because the

failure-to-register statute did not contain a culpable mental state and did not clearly dispense with one, the court looked first to section 6.02(c) of the penal code, which requires that the statute be read to require intent, knowledge, or recklessness to establish criminal responsibility. *Id.* The question was "what mental states apply and to what element must they attach—the duty to register or the failure to comply with one of Texas Code of Criminal Procedure Chapter 62's requirements."

To answer the question of what mental states applied and to which element they attached, the court looked to the gravamen of the failure-to-comply offense. *See id.* The court first explained that there were three different categories of offenses:

> We distinguish offenses into three different categories of offenses based on the offense-defining statute's gravamen, or focus: "result of conduct," "nature of conduct," or "circumstances of conduct" offenses. Result-of-conduct offenses concern the product of certain conduct. Nature-of-conduct offenses are defined by the act or conduct that is punished, regardless of any result that might occur. Lastly, circumstances-of-conduct offenses prohibit otherwise innocent behavior that becomes criminal only under specific circumstances.

Id. The court added that article "62.102(a) is a generalized 'umbrella' statute that criminalizes the failure to comply with any of the registration requirements set out in Chapter 62," and that "[f]ailing to comply with Chapter 62 is not criminal by its very nature, but rather is made unlawful by the circumstances—the duty to comply by virtue of a reportable conviction." *Id.* "Therefore, the failure-to-register offense is a circumstances-of-conduct offense, and the gravamen of the offense is the duty to register." *Id.* at 170–71.

The court analogized to the failure-to-stop-and-render-aid statute, which also does not contain an explicit culpable mental state. *Id.* at 171. That statute, section 550.021 of the Texas Transportation Code, provides that the operator of a vehicle involved in an accident resulting in injury to or death of a person shall: (1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible; (2) immediately return to the scene of the accident if the

vehicle is not stopped at the scene of the accident; and (3) remain at the scene of the accident until the operator complies with the statutory duty to give information and render aid. *Id.* A person commits an offense if the person does not stop or does not comply with the requirements of the statute. *Id.* Because a person's failure to stop, return, remain, give information, or render aid only becomes criminal due to his knowledge of the circumstances—an accident and a victim suffering an injury—the offense was a circumstances-of-conduct offense. *Id.* at 172. And having determined that the failure-to-register statute, like the failure-to-stop-and-render-aid offense, was a circumstances-of-conduct offense, the court then noted that intent did not apply because "the statutory definition of 'intent' contains no provision for circumstances surrounding conduct, unlike the definitions of knowledge and recklessness." *Id.* The court held that the culpable mental states of knowledge and recklessness applied only to the duty-to-register element of article 62.102's failure-to-comply offense. *Id.*

Like the sex-offender registration requirements in *Robinson* and the duties accompanying an accident and resulting injury that were discussed in that case, the failure to comply with civil commitment requirements is made unlawful by the circumstances—in particular, a person's adjudication and commitment as a sexually violent predator. Thus, the gravamen of the offense is the duty to comply that is triggered by adjudication and commitment. As with the failure to comply with sex-offender registration requirements and the failure to stop and render aid, a violation of civil commitment requirements is, hence, a circumstances-of-conduct offense. As a result, only the culpable mental states of knowledge and recklessness apply to the offense, and those mental states apply only to the circumstances surrounding the conduct—that is, the fact that the person has been adjudicated and civilly committed as a sexually violent predator. We now turn to the evidence presented at trial.

To assess the sufficiency of the evidence, this Court should examine all the evidence in

the light most favorable to the verdict and determine whether, based on the evidence and any reasonable inferences from it, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Wise v. State*, 364 S.W.3d 900, 903 (Tex. Crim. App. 2012); *Lucio v. State*, 351 S.W.3d 878, 894 (Tex. Crim. App. 2011). The elements of the offense are defined by the hypothetically correct jury charge that accurately sets out the law, is authorized by the indictment, and does not unnecessarily increase the State's burden of proof or restrict the State's theories of liability. *Malik v. State*, 953 S.W.2d 234, 240 (Tex. Crim. App. 1997).

Reviewing the evidence, the record shows that sexually violent predators who are civilly committed in Dallas County after their release from prison are assigned to live at the Wayback House, also known as the Dallas Transitional Center. Tiffany Maybank, appellant's former case manager, testified that the Wayback House was not a lockdown facility but was guarded and monitored continually, and that each violent predator wears a GPS monitor on his ankle that allows his case manager to track his movements. The GPS monitor has a battery that must be recharged twice each day.

Appellant arrived at the Wayback House on October 2, 2009, approximately two months after the court signed the commitment order. Maybank explained that when a person first arrives at the Wayback House, his case manager reviews with him the civil commitment order and the other rules and regulations. He is given and must sign various forms, including an agreement regarding therapeutic activities, a document that summarizes the treatment behavior contract requirements, a statement of the supervision requirements, and another document that summarizes the GPS tracking service requirements. If the person fails to comply with any of the conditions in these forms, the case manager generates an "incident report" and notifies the person and his treatment team. Maybank testified that appellant was provided with such forms in

October of 2009, when he first arrived at the Wayback House. Included among the many exhibits in this record are copies of four CSOT forms that were signed by appellant on October 2, 2009: "Agreement Regarding Therapeutic Activities"; "Treatment Behavior Contract Requirements"; "Supervision Requirements"; and "Global Positioning Tracking Service Requirements for WMTD [Wearable Miniature Tracking Device]." These documents advised appellant he had been civilly committed as a sexually violent predator and listed the various rules and regulations of his supervision, pursuant to the order of commitment. Appellant signed these forms again on May 27, 2011, after he was assigned to a new case manager.[4]

The GPS monitoring services were provided by Pro Tech Electronic Monitoring, later acquired by 3M Electronic Monitoring. Leslie Portis, an employee with 3M, brought a sample GPS tracking device with her and showed it to the jury. The device was about three or four inches in length and had a strap that attached to the person's leg. Portis testified that the person wearing such a device would know the rechargeable battery had been depleted because the device would vibrate and the power light would flash red. If there was a green light, the unit was fully charged. Portis also testified that charging the unit was not difficult: The user is provided with a wall charger that plugs into a wall socket. If the battery is not charged properly, the person's case manager is notified by text message, email, or page when the battery level gets too low. The monitoring system also tracks when the person charges the unit, including when he started charging the unit and when he stopped. In addition to a low battery level, the system will send an alert to the case manager if a person tampers with the device, if the strap comes apart, if the device loses communication with its satellite, or if the person is not home at a certain time. The device can be programmed in such a way that it will first alert the person of a violation

[4] Maybank was appellant's third case manager. She assumed those duties in July of 2011, preceded by Wesley Griffin, who took over from Andre O'Bryan. O'Bryan died in February of 2011. Maybank testified that when Griffin took over supervision of appellant, he had appellant sign the forms again to ensure appellant was on notice of all of his obligations.

before alerting the case manager, in order to give the person time to correct the issue.

The "Global Positioning Tracking Service Requirements for WMTD" form that appellant signed on October 2, 2009, and again on May 27, 2011, specifically required him to wear the GPS ankle monitor twenty-four hours a day, seven days a week. It required him to charge the device twice per day, for a minimum of two hours each morning and two hours each night. Appellant was forbidden from tampering with, altering, modifying, obstructing, or manipulating the GPS signal, and he was specifically advised that the computer printout and activity schedule "may be used as evidence in a court of law to prove said violation(s)."

During appellant's commitment, his case managers received four battery alerts indicating he had failed to charge the GPS device as instructed. Copies of the four CSOT incident reports documenting those battery alerts are included in the record. On October 21, 2009, at 3:32 p.m., the device registered a battery alert because it had not been charged as directed. On March 8, 2010, appellant failed to charge his GPS tracking device as directed. He also failed to charge it as directed on April 30, 2010, and May 1, 2011. On each occasion, according to the written incident reports, appellant was reprimanded either verbally or in writing and advised that he was required to charge the device twice per day, for a minimum of two hours each morning and two hours at night.

Portis testified that the device would have alerted appellant first that it needed to be charged, and he would have had thirty minutes to get the device to a charger before his case manager received an alert. According to the GPS tracking device's activity log, appellant waited thirty-two minutes following the October 21, 2009, battery alert to begin charging the device. In addition to the incident report from that day, a written notation prepared by Andre O'Bryan, at that time appellant's case manager, stated that he received the battery alert at 3:32 p.m. on October 21, 2009, and that he called the Wayback House, had staff bring appellant to the phone,

and told him to charge his device for two hours.

Another incident report stated that on March 30, 2010, between 12:12 and 12:13 a.m., O'Bryan received a "strap tamper alert" on the device alerting him that the strap of the unit had been damaged. The report stated that appellant provided a statement claiming he fell while getting out of the shower, causing the unit to hit the toilet and break apart. Maybank testified that the GPS tracking device was water resistant, built to withstand pressure and dropping, and that it would have taken "a great deal of force" to cause that kind of damage. Portis testified that the device was "very durable" and it would have taken "somebody taking a hammer or some hard object and pounding on it and pounding on it to crack the plastic or possibly smash it." She added that it was possible falling out of a shower could break the strap, but in such a case "you would see physical damage on the actual device itself."

Regarding the May 1, 2011 incident, Wesley Griffin, appellant's second case manager, testified that he was doing random checks of individuals that were on his caseload when he noticed appellant "didn't get a proper charge into the evening or at night on May 1st, 2011." Griffin testified that he spoke to appellant at the Wayback House about the battery alert, and that appellant claimed he had charged the device when he went to sleep.

When questioned on cross-examination regarding whether appellant had complained about the monitor not functioning properly, Maybank testified that she did not recall appellant ever complaining about the device not functioning properly. Griffin likewise testified that appellant had never told him he had any problems with the unit, and that, while the device was not infallible, Griffin "had no concerns or indication" that he was receiving unreliable information from the device.

The indictment in the GPS case alleged that appellant, being a person under outpatient civil commitment as a sexually violent predator, intentionally and knowingly violated the

requirements of the civil commitment order by repeatedly failing to charge his tracking device and by causing damage to the device. The jury charge in the GPS case authorized the jury to convict appellant if it found beyond a reasonable doubt that he, on or about May 1, 2011, while under outpatient civil commitment as a sexually violent predator, intentionally and knowingly violated the requirements of the civil commitment order by failing to charge the wearable miniature tracking device or by causing damage to it.

Because intent, as we have already noted, does not apply to a circumstances-of-conduct offense, and the indictment in the GPS case did not allege recklessness, the State had to prove appellant acted knowingly. A person acts knowingly with respect to circumstances surrounding his conduct when he is aware that the circumstances exist. TEX. PENAL CODE ANN. § 6.03(b) (West 2011). Consequently, the State had to prove appellant (1) had been adjudicated and civilly committed as a sexually violent predator and (2) while he was aware that he had been adjudicated and civilly committed as a sexually violent predator, and was subject to civil commitment requirements, including GPS tracking, appellant violated the tracking requirement by failing to charge the tracking device or by damaging it.

The evidence shows that on August 5, 2009, in Montgomery County, appellant was adjudicated as a sexually violent predator, and that he was subsequently civilly committed by order of the 435th Judicial District Court. Appellant signed the court's judgment but did not sign the commitment order. Nonetheless, the order states that it was read to appellant in its entirety. When he first arrived at the Wayback House, appellant signed various forms that advised he had been civilly committed as a sexually violent predator and listed the rules and regulations of his supervision. One of those forms specifically advised appellant that he was required to charge the GPS tracking device twice per day, for a minimum of two hours each morning and two hours each night, and that he was forbidden from tampering with, altering, modifying, obstructing, or

manipulating the GPS signal. Furthermore, the evidence shows that appellant's case managers learned of multiple instances where he did not charge his GPS tracking device as instructed, and that appellant was counseled regarding those battery alerts and warned that he was required to charge the device. Additionally, there is evidence indicating that appellant broke the strap that held the tracking device to his ankle.

We conclude the evidence shows that appellant, after having been adjudicated and civilly committed as a sexually violent predator, knowingly violated the GPS tracking requirement of his civil commitment order, and that a rational jury could have found all of the elements of the offense beyond a reasonable doubt. Accordingly, the evidence is sufficient to support the jury's verdict in the GPS case. We overrule appellant's first issue.

II. The Treatment Case

In his second issue, appellant contends the evidence is insufficient to support his conviction in the treatment case. The State advises that we should reverse appellant's conviction in the treatment case because the offense alleged in the indictment has been retroactively decriminalized.

Under the law in effect at the time of appellant's trial, "[a] person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082." *See* TEX. HEALTH & SAFETY CODE § 841.085(a) (West, Westlaw through 2013 3rd C. Sess.). Section 841.082 provided that "[b]efore entering an order directing a person's outpatient civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community." *See id*. § 841.082(a) (West, Westlaw through 2013 3rd C. Sess.). At the time of appellant's trial, there were eight enumerated requirements in section 841.082, one of which read as follows: "(4) requiring the

person's participation in and compliance with a specific course of treatment provided by the office and compliance with all written requirements imposed by the case manager or otherwise by the office." *See id.* § 841.082(a)(4) (West, Westlaw through 2013 3rd C. Sess.).

S.B. 746, however, eliminated three of the eight requirements in section 841.082 and renumbered the remaining five. *See* Act of May 21, 2015, 84th Leg., R.S., S.B. 746, ch. 845, § 13, sec. 841.082(a), 2015 Tex. Sess. Law Serv. 2700, 2704. In particular, it renumbered subsection (4) as subsection (3) and modified it to read as follows: "(3) requiring the person's participation in and compliance with the sex offender treatment program provided by the office and compliance with all written requirements imposed by the office." *See id.* § 13, sec. 841.082(a)(3). S.B. 746 also rewrote the criminal offense in section 841.085(a) to decriminalize the violation of this requirement: "A person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under Section 841.082(a)(1), (2), (4), or (5)." *See id.* § 19, sec. 841.085(a).

Because of these statutory changes, the conduct for which appellant was prosecuted and convicted in the treatment case is no longer a crime. *See Mitchell*, 473 S.W.3d at 512–13. Furthermore, S.B. 746 specifically provided that the changes to section 841.085 applied as follows:

> The change in law made by this Act in amending Section 841.085, Health and Safety Code, applies to an offense committed *before, on, or after* the effective date of this Act, except that a final conviction for an offense under that section that exists on the effective date of this Act remains unaffected by this Act.

See Act of May 21, 2015, 84th Leg., R.S., S.B. 746, ch. 845, § 41, 2015 Tex. Sess. Law Serv. 2700, 2711 (emphasis added). The judgment in the treatment case was entered February 20, 2015, and appellant filed his notice of appeal six days later, on February 26, 2015. The appeal was, therefore, pending when S.B. 746 went into effect on June 17, 2015. *See id.* § 44. The

Texas Court of Criminal Appeals has held that "a conviction from which an appeal has been taken is not a final conviction until the conviction is affirmed by the appellate court and that court's mandate of affirmance becomes final." *Fletcher*, 214 S.W.3d at 6; *see Mitchell*, 473 S.W.3d at 516–17.

Since appellant's conviction in the treatment case was pending on appeal when S.B. 746 went into effect, it was not a final conviction and the change in law applies to the charged offense. Hence, as the State concedes in its brief, appellant's indictment in the treatment case charges him with conduct that is no longer a criminal offense, and the indictment in the treatment case is void and cannot sustain the conviction. We accordingly sustain appellant's second issue, vacate the judgment in the treatment case, and remand that case to the trial court for dismissal of the indictment. *See* TEX. R. APP. P. 43.2(c); *Mitchell*, 473 S.W.3d at 517. The mandate in cause 05–15–00337–CR shall issue instanter.

III. The Motion to Quash

In his third issue, appellant contends the trial court should have quashed the indictments on the ground that the civil commitment statute is unconstitutional. His argument is that the statute is punitive in nature and is an ex post facto law that violates the prohibition against double jeopardy. The argument that the civil commitment statute for sex offenders is punitive has been rejected by the Texas Supreme Court. *See In re Commitment of Fisher*, 164 S.W.3d 637, 645–53 (Tex. 2005). Additionally, this Court has previously rejected a challenge to the constitutionality of the statute on the basis that it is punitive in nature and therefore an ex post facto law that violates the prohibition against double jeopardy. *See Petersimes v. State*, No. 05–10–00227–CR, 2011 WL 2816725, at *6 (Tex. App.—Dallas July 19, 2011, pet. ref'd) (not designated for publication). Similar challenges have been rejected by other courts. *See, e.g., In re Commitment of Miller*, 262 S.W.3d 877, 882–87 (Tex. App.—Beaumont 2008, pet. denied);

Adams v. State, 222 S.W.3d 37, 55–57 (Tex. App.—Austin 2007, pet. ref'd).

Appellant acknowledges *Fisher*'s holding but argues it should be re-examined. As an intermediate court of appeals, however, we are required to follow *Fisher* until the Texas Supreme Court tells us otherwise. *See Lubbock Cnty., Tex. v. Trammell's Lubbock Bail Bonds*, 80 S.W.3d 580, 585 (Tex. 2002) ("It is not the function of a court of appeals to abrogate or modify established precedent."); *Diggs v. Bales*, 667 S.W.3d 916, 918 (Tex. App.—Dallas 1984, writ ref'd n.r.e.). Following this precedent, as we must, we conclude the civil commitment statute is not an ex-post facto law that violates double jeopardy. *See Fisher*, 164 S.W.3d at 653; *Petersimes*, 2011 WL 2816725, at *6. Thus, the trial court properly denied the motion to quash the indictment on this ground. We overrule appellant's third issue.

Conclusion

We vacate the trial court's judgment in the treatment case and remand that case to the trial court for dismissal of the indictment, and we affirm the trial court's judgment in the GPS case.

/Lana Myers/
LANA MYERS
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

CHARLES ANTHONY WILLIAMS,
Appellant

No. 05-15-00336-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial District Court, Dallas County, Texas
Trial Court Cause No. F11-49252-V.
Opinion delivered by Justice Myers. Justices Fillmore and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 30th day of March, 2016.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

CHARLES ANTHONY WILLIAMS, Appellant

No. 05-15-00337-CR V.

THE STATE OF TEXAS, Appellee

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Trial Court Cause No. F11-49253-V.
Opinion delivered by Justice Myers. Justices Fillmore and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **VACATED** and we **REMAND** this cause to the trial court for dismissal of the indictment.

Judgment entered this 30th day of March, 2016.