



**Fourth Court of Appeals**  
**San Antonio, Texas**

**CONCURRING OPINION**

No. 04-16-00368-CR

Peter Mark **LEE**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the County Court at Law No. 7, Bexar County, Texas  
Trial Court No. 493014  
Honorable Genie Wright, Judge Presiding

Opinion by: Irene Rios, Justice  
Concurring Opinion by: Rebeca C. Martinez, Justice

Sitting: Sandee Bryan Marion, Chief Justice  
Rebeca C. Martinez, Justice  
Irene Rios, Justice

Delivered and Filed: August 2, 2017

I write separately on Issue No. 2 because I believe the record shows the trial court erred by permitting the EMT, Jovanca Liedl, to give expert testimony on the cause of Rachel Lee's injuries. Before trial began, the trial court ruled that any State expert witness would be excluded based on the State's failure to designate any experts. In permitting Liedl to give her professional opinion on the cause of Rachel's injuries, over defense counsel's objection that it constituted expert testimony, the trial court improperly characterized Liedl's testimony as lay opinion testimony and admitted it on that basis. Liedl's testimony that, in her opinion, the cause of Rachel's injuries was "blunt force trauma" was not merely lay testimony based on Liedl's personal observations or

perceptions. *See* TEX. R. EVID. 701. Rather, the opinion testimony on causation was based on Liedl’s specialized “knowledge, skill, experience, training, and education” as a certified emergency medical technician within the meaning of Rule 702. *See* TEX. R. EVID. 702 (expert witness testimony); *see also Chakravarthy v. State*, 516 S.W.3d 116, 130-31 (Tex. App.—Corpus Christi-Edinburg 2017, no pet.). Because the trial court had already excluded any State experts, and Liedl’s causation testimony was based on her medical training and specialized knowledge, her expert opinion testimony should have been excluded. However, because I agree with the majority that the error was harmless, I concur in the result on this issue.

Rebeca C. Martinez, Justice

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