

REPORTER'S RECORD
VOLUME 2 OF 2
CAUSE NO. CR35515

THE STATE OF TEXAS * IN THE COUNTY COURT
 *
VS. * OF
 *
PATRICK LEWIS VADEN * MILAM COUNTY, TEXAS

PROCEEDINGS
DECEMBER 17, 2019

ON THE 17TH DAY OF DECEMBER, 2019, the following
came on to be heard in the County Court of Milam County,
102 South Fannin Avenue, Cameron, Texas 76520, in the
above-titled and -numbered cause, and the following
proceedings were had before the Honorable Steve Young,
Judge Presiding, to-wit:

Proceedings reported stenographically by Amanda J.
Leigh, Texas Certified Shorthand Reporter No. 3791.

A P P E A R A N C E S

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STATE'S APPEAL EXHIBIT
(ADMITTED CONDITIONALLY)

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1	Full Body Cam Video	16	16
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P R O C E E D I N G S

(December 17, 2019, 8:58 a.m. The following proceedings held in chambers between Court and Counsel.)

MR. NUTTALL: Your Honor, I had to talk to my boss about this and think about this overnight, but I think I've got to move for a mistrial here. This conduct has just been outrageous. He's already violated, in opening statements and voir dire, the motion in limine. He violated number 4 when he talked about accommodations. He was told he could bring in the vet status but nothing else. He then violated number 13, which is any claim or comment regarding discovery. The -- he stated that he's going to bring that up as his due process argument. He's -- he's already made a statement to the jury that we are going to hide evidence, which is in violation of 14 and impugns character, which violates the Texas Lawyer's Creed as well, in sections 9 and 10 there.

THE COURT: Joe, hand me my glasses, please.

MR. JOHNSON: Yes, sir.

THE COURT: Thank you.

MR. NUTTALL: And he's already violated number 16, almost immediately after we spent 15 minutes

1 talking about it, and that's the license-to-carry one.

2 In addition -- in addition in voir dire,
3 we had our little media personality there, sitting in
4 the back, and so if he was able to hear that sidebar
5 comment about jury nullification, then it's
6 undoubtable -- undoubtedly, the entire jury panel did.

7 THE COURT: So, then, what is this?

8 MR. NUTTALL: That is his Facebook
9 report.

10 THE COURT: Who did this?

11 MR. NUTTALL: Jim Parks. He's that media
12 guy.

13 THE COURT: "During one such conference,
14 Glass let his voice project sideways" -- "sidewise to
15 bounce off the rear wall of the courtroom with two words
16 very plainly audible - 'jury nullification.'"

17 What does that mean?

18 MR. NUTTALL: Jury nullification means do
19 not follow the law --

20 MR. COLEMAN: Wait, what?

21 MR. NUTTALL: -- plain and simple. It
22 means you know that my guy's guilty, but find him not
23 guilty anyway.

24 THE COURT: Who is this media guy? Do
25 you know him?

1 MR. GLASS: I don't know him, Judge. I
2 suspect I know who he is in the courtroom. But trying
3 to put me with some sort of conspiracy with social
4 media --

5 THE COURT: Yeah, who took this picture?

6 MR. NUTTALL: He did, probably.

7 MR. GLASS: Am I in it, Judge?

8 THE COURT: You're standing on my --

9 MR. GLASS: Okay, in that case, I know I
10 didn't take the picture. That, I didn't do.

11 THE COURT: Okay, okay, okay.

12 So what do you think about his motion?

13 MR. GLASS: Judge, I appreciate you
14 asking me my opinion. In all candor, I would say that
15 he's making the motion because he's losing and --
16 Counsel can giggle and all that. That's all right; you
17 were interrupting me yesterday while I was trying to put
18 on a case, but -- the only people in here that aren't
19 following the law is the State.

20 THE COURT: How so?

21 MR. GLASS: My client had a license to
22 carry, Judge. When I talk about the Constitution -- the
23 Constitution comes into any court in the land; I don't
24 care what the case is about. A dog-bite case, the
25 Constitution comes in. That's our law. Mr. Johnson

1 asked me yesterday if I had a case cite to the
2 Second Amendment applying to a right-to-carry case, an
3 unlawful-carry case --

4 MR. JOHNSON: That's not what I said,
5 Mr. Glass.

6 MR. GLASS: Judge, if I'm interrupted
7 again, I'm not going to talk anymore. My mama taught me
8 better than that. I'm sure Joe's mama taught him better
9 than that.

10 THE COURT: Keep going. He won't do it
11 again.

12 MR. GLASS: So -- and I'm just going to
13 add to that: I have enough respect for these two men
14 that I don't interrupt them and I don't roll my eyes at
15 them.

16 THE COURT: Okay, okay. He shouldn't
17 interrupt you, and I'm going to chastise him, but --

18 MR. GLASS: I know you're not.

19 THE COURT: Yes, I am. Don't tell me
20 what I'm going to do or not do. Now, that's a no-no.

21 MR. COLEMAN: I think he misunderstood
22 you a little bit, Judge.

23 THE COURT: Okay. I'm sorry. Excuse me
24 for --

25 MR. GLASS: No, no, no. I'm sorry.

1 So going on, these gentlemen know the
2 law. They know that if he has a license to carry,
3 there's a due process requirement. They have led this
4 case to...

5 THE COURT: Y'all.

6 MR. NUTTALL: I can talk -- I can sidebar
7 with my co-counsel.

8 THE COURT: Yeah, but you're interrupting
9 the poor man. Let him finish, and then I'll let you say
10 anything you want to.

11 MR. GLASS: So First Amendment, Fourth
12 Amendment, Second Amendment. It's a court of law; I
13 don't need case cites for the U.S. Constitution. And as
14 we go on in this case, Judge, if I'm not allowed to put
15 on a case for my client, then why even have me here?
16 Why not just star-chamber it and let the prosecution put
17 it in front of the jury without me and let's just drive
18 on down the road.

19 Now, you asked me about my thoughts as
20 far as a mistrial.

21 THE COURT: Yeah, that's what I was
22 looking for.

23 MR. GLASS: Thank you for letting me get
24 my thoughts on the record there.

25 Because -- and I know this is going to

1 make these gentlemen's heads spin off, so I'll say, if
2 y'all want to sit down, because I don't believe they are
3 following the law. I feel the exact same way about the
4 mistrial, but from my perspective.

5 Does that make sense, Your Honor?

6 THE COURT: Oh, not really. Let me ask
7 you this. How are they not following the law?

8 MR. GLASS: They are not allowing me to
9 bring in 46.15, which clearly states nonapplicability to
10 46.02. My guy had a license to carry. If I'm not
11 allowed to represent that, I'm not allowed to bring that
12 up in court --

13 THE COURT: I'm the one that made that
14 ruling, not them.

15 MR. GLASS: Judge, you can change your
16 ruling.

17 THE COURT: I can do whatever, but I'm --

18 MR. GLASS: Yes.

19 THE COURT: -- not going to.

20 So my question is, how do you -- do you
21 agree with this motion or do you disagree?

22 MR. GLASS: James, what are your
23 thoughts?

24 MR. COLEMAN: Your Honor, if I would,
25 I -- I don't think your actual rulings in regards to

1 these motions in limines have been violated. I believe
2 that, yes, their motion in limine says they asked for
3 that, but I don't agree that you actually granted the
4 specific provisions that they're allowed. The things
5 that we're being accused of violating haven't been
6 violated. In specific, in regards to the license to
7 carry, for example, you have not granted their motion in
8 limine in regards to license to carry yet. You just
9 keep saying, This portion of the trial, it doesn't come
10 in yet, as in eventually we're going to be able to
11 discuss this essential, crucial part of our defense
12 case, which is the only reason we're even having a
13 trial, because, otherwise, we concede all the elements
14 in the State's case.

15 THE COURT: So my question is, how do you
16 feel about their motion?

17 MR. COLEMAN: I do not believe the motion
18 in limine has been violated that was granted by the
19 Court in the words the Court granted or did not.

20 THE COURT: I know that, James, and I
21 hear what you're saying, but he's raised other issues.
22 My question to you is, do you agree or object to their
23 motion?

24 MR. COLEMAN: I object to the motion for
25 new trial, Your Honor. I don't think it's necessary.

1 MR. NUTTALL: May we finally get a word
2 in edgewise? because yesterday I wasn't allowed to talk;
3 I was interrupting him. Today we aren't allowed to
4 talk; we're interrupting him and being rude --

5 THE COURT: Okay.

6 MR. NUTTALL: -- or whatever --

7 THE COURT: Go ahead. Go ahead.

8 MR. NUTTALL: First of all, before we
9 even went into opening, he said, You're going to have to
10 sanction me, Judge, because I got to provide my client a
11 defense, so you're going to have to sanction me. He
12 stated that.

13 As for 16, yes, you did grant it. You
14 said it does not come in now. That indicates that it is
15 granted. It may come in at a future point, but that
16 will be based on the evidence that's there. So, yes,
17 that one was granted. All of these were granted by you.
18 That was the only one that was limited to voir dire,
19 initially, and we got a ruling before opening that we
20 were not to bring it up then, either.

21 So, yes, it has --

22 MR. JOHNSON: Four sustained objections
23 on opening.

24 MR. NUTTALL: I had four sustained
25 objections on opening, and most of them were back to

1 back. This is, obviously, intentional conduct because
2 immediately after losing one objection, he then impugned
3 my character.

4 And as for the 46.15 argument, we have
5 already dealt with that. That's a legal argument, not a
6 factual argument. We agreed to the fact that there is a
7 license to carry.

8 MR. GLASS: I'd like the record to
9 reflect that Mr. Nuttall is raising his voice to the
10 Court.

11 THE COURT: Anything else?

12 MR. NUTTALL: No, Your Honor.

13 THE COURT: Anything?

14 MR. GLASS: No, I don't think so, Judge.

15 THE COURT: Okay. So we're going to go
16 off the record for a minute.

17 (Off the record momentarily.)

18 THE COURT: Go ahead, Joe.

19 MR. JOHNSON: I have never seen a defense
20 attorney tell the Court, You're going to have to
21 sanction me because I'm going to violate your rulings.
22 That is outrageous conduct by the Defense. I mean, it
23 shows zero respect for this Court, no respect for where
24 we are. I have never seen a defense attorney act like
25 that.

1 THE COURT: Anything else?

2 MR. NUTTALL: No, Your Honor.

3 THE COURT: Okay. So we're off the
4 record.

5 (Off the record, 9:09 a.m. until 10:25
6 a.m. Resuming in courtroom outside the
7 presence of jury. Counsel and Defendant
8 present. Defendant present in courtroom
9 throughout entirety of proceedings.)

10 THE COURT: All right. We're back on the
11 record in the case of The State of Texas versus Patrick
12 Vaden, Cause Number CR35515 in the County Court of Milam
13 County, Texas. Today's date is Tuesday, November 16,
14 2019 -- December the 17th. We are outside the presence
15 of the jury. Counsel for both parties are present, as
16 is Defendant Vaden.

17 Counsel for the parties and I, the Court,
18 have had several discussions this morning regarding the
19 legal issues involved in this case. This case involves
20 the interpretation of the two laws which appear, at
21 times, to be in conflict. Therefore, the parties have
22 suggested and the Court is amenable to an interlocutory
23 appeal in this matter of the issue of -- as will be set
24 forth below.

25 The stipulated facts in this case are as

1 follows: Mr. Vaden was operating a motorcycle in Milam
2 County, Texas, on November the 10th, 2018, and is
3 stopped by Officer Tice for speeding. His radar
4 indicated he was traveling at a speed of 67 miles per
5 hour in a 60-mile-per-hour zone; number two, Mr. Vaden
6 was carrying a concealed handgun at the time he was
7 stopped for the alleged traffic violation; number three,
8 Mr. Vaden has a license to carry a concealed handgun
9 pursuant to Subchapter H, Chapter 4.11, Texas Government
10 Code; number four, Mr. Vaden was a member of the
11 Bandidos, which is a criminal street gang as defined by
12 Penal Code 71.01; and, lastly, number five, Mr. Vaden
13 was arrested for and charged with a violation of Section
14 46.02(a-1)(2) of the Texas Penal Code.

15 Trial in this case started yesterday
16 morning, on Monday, December the 16th, 2019. A jury was
17 impaneled. The jury has heard no evidence. However,
18 the jury has heard opening statements by both parties.
19 Due to the -- what we believe is a -- what the Court
20 believes is a conflict in the two laws governing this
21 matter, an interlocutory appeal is appropriate.

22 The central issue in the case is whether
23 Mr. Vaden -- let me start over.

24 The central issue in the case is whether
25 or not the Court should allow evidence of Mr. Vaden's

1 license to carry a handgun to come into evidence before
2 the jury. The Court has ruled and continues to rule
3 that this issue, the fact that Mr. Vaden had a license
4 to carry a handgun, should not come into evidence in
5 this matter, and the Court has ruled previously,
6 yesterday, in a motion in limine and otherwise, that
7 that should not come into evidence.

8 The basis of the Court's ruling was and
9 continues to be that the charge of the Court does not
10 incorporate nor include that issue. The charge of the
11 Court, in all probability, if the matter goes forward,
12 would include these four elements, as follows: number
13 one, the Defendant carried on or about his person a
14 handgun; number two, the Defendant carried a handgun
15 intentionally, knowingly, or recklessly; number three,
16 the Defendant was in a motor vehicle that was owned by
17 the Defendant or in the Defendant's control;
18 number four, at the time the Defendant was a member of a
19 criminal street gang.

20 So the Court will now hear from both
21 counsel in the case on this issue as to anything I may
22 have left out with respect to this interlocutory issue.

23 MR. NUTTALL: The only thing I believe
24 the Defense counsel had was they wanted, for the
25 purposes of appeal, the full camera -- this is the full

1 video of the body camera. Without waiving any
2 objections that we may have to introducing this at
3 trial, I would like to introduce it for the purposes of
4 appeal, and I'll mark it as Exhibit 1.

5 (State's Exhibit 1 offered, appeal record
6 exhibit.)

7 THE COURT: Counsel?

8 MR. COLEMAN: That is, essentially, what
9 we were talking about with regards to video, yes,
10 Your Honor.

11 THE COURT: All right. So the Court is
12 going to admit the body cam video, Exhibit -- State's
13 Exhibit Number 1, for purposes of this appeal only, with
14 the understanding that the State is not waiving any
15 objections it may have later on if the case goes
16 forward.

17 (State's Exhibit 1 admitted, appeal
18 record exhibit.)

19 MR. COLEMAN: Yes, Your Honor.

20 An additional issue, Your Honor, in
21 regards to the Court's charge, the Defense has offered a
22 proposed jury charge in writing, adding the following
23 language (as read): It is an affirmative defense to the
24 charge of unlawful carry of a weapon if Defendant
25 Patrick Vaden held a valid -- validly issued license to

1 carry, as issued in accordance with the Texas Government
2 Code Chapter 4.11, Subchapter D. And the Court has
3 denied that affirmative defense language as not relevant
4 to the issues of the case.

5 THE COURT: Correct. That is correct.

6 MR. COLEMAN: Nothing further,
7 Your Honor.

8 MR. NUTTALL: Nothing further from the
9 State, then, Your Honor.

10 THE COURT: The Court has nothing further
11 to add to the record, and so it's the Court's hope that
12 the parties will promptly appeal this issue for -- to
13 obtain a ruling by the appellate court; and after, based
14 on the ruling of the appellate court, the trial court
15 will proceed accordingly.

16 Thank you all very much. We're off the
17 record.

18 (Off the record, 10:32 a.m. until 10:37
19 a.m. Upon resuming, proceedings held
20 outside presence of jury.)

21 THE COURT: Let's get on the record,
22 Ms. Court Reporter.

23 Counsel for the State, do you have a
24 motion?

25 MR. NUTTALL: Yes, Your Honor. I would

1 move for mistrial on the same grounds we previously
2 discussed on record.

3 THE COURT: All right. Mr. Glass --
4 James?

5 MR. COLEMAN: Your Honor, we do not agree
6 to any of the grounds to the mistrial that have been
7 stated by Counsel, but we have no objections to a
8 mistrial being granted at this time.

9 THE COURT: The Court has heard from both
10 parties with respect to the State's motion for mistrial.
11 Based on the fact that both parties are -- that the
12 State has moved and the Defendant is not objectionable,
13 the Court is going to grant the motion for mistrial, and
14 the jury will now be called in and released.

15 So we'll go off the record now.

16 (Off the record, 10:37 a.m. until 10:38
17 a.m. Upon resuming, jury is present.)

18 THE COURT: Please be seated. Please be
19 seated.

20 Ladies and gentlemen of the jury, welcome
21 again to the County Court. As I told everyone
22 yesterday, this system only works when you show up, and
23 so it has worked. We have been dealing with several
24 legal issues in this case for a long time. We've dealt
25 with those again yesterday, as you saw some; we've dealt

1 with those this morning, for the last two hours.

2 And what I'm going to do today, what I've
3 already done, I've declared a mistrial, and there's one
4 central issue in the case that we're going to appeal to
5 the Court of Appeals. I've made a ruling yesterday on
6 some issues, but we're going to let somebody else taller
7 than me make a decision as to whether or not my ruling
8 is correct; and once we get that ruling, then we'll go
9 back to work with another trial in this matter. That
10 never would have happened if you-all hadn't been here,
11 if we hadn't had a jury, if we hadn't had a trial, if we
12 hadn't gotten this process started.

13 I know that sounds a little foreign
14 sometimes, you know, why can't y'all do these things
15 without us; and the answer is, after many years of trial
16 work myself, I just know and everybody in this business
17 knows that things happen when you get a jury in a box
18 and now there's someone there to make a decision for you
19 and you'd better get busy because you've just turned
20 over your whole case to somebody you don't know and you
21 don't know what they're going to do and we don't know
22 what they're going to do, and you don't even know what
23 you're going to do.

24 So the system has worked. The only
25 disappointment I have is that you didn't get to hear the

1 evidence in this case. These are all four very good
2 lawyers, and they have worked hard to get their case
3 ready for you to hear. They have a lot of good
4 witnesses for you to hear from. It would have been an
5 interesting case for you to hear and decide. However,
6 it would have been in vain for you-all to sit here and
7 hear the evidence and then have the case go up on appeal
8 and sent back down because of the one ruling that I made
9 yesterday.

10 And so for those reasons, we're going to
11 save you a lot of heartache and let you go home and --
12 because of that. There's no need in putting on all this
13 and letting that one thing -- it's a question of law.
14 It's not a question for the jury. It's not a matter of
15 fact; it's a question of law for somebody to decide.

16 So there you have it. So -- but we're
17 just all delighted to have you in the courtroom. We're
18 delighted that you were here. We hope you'll come back
19 and see us again. With that, you are dismissed.

20 One last word of caution: you are not
21 required -- all the rules -- the instructions I gave you
22 yesterday are dispensed with now. You're free to talk
23 to anybody in the case, if you so desire. You do not
24 have to. But if the lawyers would like to talk to you
25 or someone wants to talk to you about what's happened

1 here in the last 24 hours, you are free to do that, if
2 you so desire.

3 With that, I say thank you very much on
4 behalf of all of us here in Milam County, and we look
5 forward to seeing you again in this courtroom.

6 Thank you. You are excused.

7 Okay. Counselors, all done.

8 (End of proceedings, 10:42 a.m.)
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1 STATE OF TEXAS)

2 COUNTY OF MILAM)

3 I, AMANDA J. LEIGH, Court Reporter serving for the
4 County Court of Milam County, Texas, State of Texas, do
5 hereby certify that the foregoing contains a true and
6 correct transcription of all portions of evidence and
7 other proceedings requested by counsel for Defendant to
8 be included in this Reporter's Record, in the
9 above-styled and -numbered cause, all of which occurred
10 in open court, in jury room, or in chambers, and were
11 reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the
14 exhibits, if any, admitted, tendered in an offer of
15 proof, or offered into evidence.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee of
18 any attorney or any party to this action.

19 WITNESS MY OFFICIAL HAND, February 10, 2020.

20
21 /S/ Amanda J. Leigh

22 AMANDA J. LEIGH, TXCSR #3791, 1/31/21
23 Milam County Court, Milam County, Texas
24 102 South Fannin Avenue
25 Cameron, Texas 76520