

the Jasuta / Schulman report

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TIBA's Case of the Week

Court of Criminal Appeals

[Case Name]: **Thomas Allen Stanton v. The State of Texas**

- **OFFENSE:** Indecency with a Child 3x
- **COUNTY:** McLennan
- **COURT OF APPEALS:** Waco 2026
- **C/A CITATION:** Unpublished
- **C/A RESULT:** Conviction Affirmed
- **CCA. CASE No.** PD-0468-26 **DATE OF DECISION:** October 15, 2026
- **DISPOSITION:** Court of Appeals Reversed
- **OPINION:** [Per Curiam](#) **VOTE:** 9-0
- **TRIAL COURT:** 54th D/C; Hon. Roy Sparkman
- **LAWYERS:** [Stan Schwieger](#) (Defense); [Josh Tetens](#) (State)

[§§ 511.06 Appellate Procedure / Policies & Presumptions / Disposition of Cases]: Appellant was convicted of three counts of indecency with a child by sexual contact and sentenced to fifteen years' imprisonment on each count. The third count alleged that he touched the complainant's breast. At trial, after the State rested, Appellant requested that the State elect which act it intended to rely upon for the breast-touching count in the indictment. Appellant renewed this request after he rested, and again during the jury charge conference. On appeal, the Court of Appeals characterized Appellant's "sole complaint on appeal" as being about the timing of the State's election. It held that Appellant had not preserved that complaint.

[Holding]: But this was not Appellant's "sole" complaint on appeal. In fact, Appellant's first issue on appeal was styled, "The trial court erred in failing to grant Appellant an election of offenses after the State had rested." *** "The statement of an issue or point will be treated as covering every subsidiary question that is fairly included" [see Rule 38.1(f), Tex.R.App.Pro.]. *** "The court of appeals must hand down a written opinion that is as brief as practicable but that addresses

every issue raised and necessary to final disposition of the appeal” [see Rule 47.1, Tex.R.App.Pro.]. We agree with Appellant that the Court of Appeals did not address every issue raised in Appellant’s appeal. We grant Appellant’s first ground for review, vacate the judgment of the court appeals, and remand the cause for the Court of Appeals to address all of Appellant’s points of error as presented in his appellate briefing.

Sidebars

[\[David A. Schulman\]](#) Appellant’s brief in the Court below clearly raised two separate and distinct issues. Thus, whatever he challenged, he clearly did not have a “sole complaint.”

[\[John G. Jasuta\]](#) What was the Court below thinking? Did they think that mis-characterizing the state of the Appellant’s brief would be ignored? Wow.