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⚖ Vol. 8, No. 40; October 9, 2000

Case Name: [Paul David Paulson v. The State of Texas](#)

- OFFENSE: Misdemeanor Theft
- COURT OF APPEALS: Houston [14th] 1999
- C/A CITATION: 991 S.W.2d 907
- C/A RESULT: Conviction Reversed
- COUNTY: Brazoria
- CRIM. APPEALS No. 0829-99
- DATE OF OPINION: October 4, 2000
- JUDGE: Keasler, J.
- DISPOSITION: Court of Appeals Reversed - Case Remanded

⚖ 321 Court's Charge / Definitions (Reasonable Doubt) - During this trial, the judge did not give the jury the reasonable doubt definition that is required by [Geesa v. State](#), 820 S.W.2d 154 (Tex.Cr.App. 1991). Note: In [Reyes v. State](#), 938 S.W.2d 718 (Tex.Cr.App. 1996)(see [Greenwood & Schulman, Vol. 4, No. 42](#); October 30, 1996), the Court held that [Geesa](#) requires that the Court approved definition of "reasonable doubt" must be given in every case and cannot be waived. Although Appellant neither requested the jury instruction nor objected to its omission at trial, he argued on appeal that [Geesa](#) and [Reyes](#) require reversal. The Court of Appeals "reluctantly" agreed and remanded the case for a new trial (see [Greenwood & Schulman, Vol. 7, No. 17](#); May 3, 1999).

Holding: In [Geesa](#), we held for the first time that trial courts must define reasonable doubt in their jury charges. Until then, we had neither required nor encouraged any reasonable doubt instruction at all. It is ill-advised for us to require trial courts to provide the jury with a redundant, confusing, and logically-flawed definition when the Constitution does not require it, no Texas statute mandates it, and over a hundred years of pre-[Geesa](#) Texas precedent discourages it. We specifically overrule that portion of [Geesa](#) which requires trial courts to instruct juries on the definition of "beyond a reasonable doubt." We also overrule [Reyes](#). We find that the better practice is to give no definition of reasonable doubt at all to the jury. On the other hand, if both the State and the defense were to agree to give the [Geesa](#) instruction to the jury, it would not constitute reversible error for the trial court to acquiesce to their agreement. We therefore reverse the Court of Appeals' decision and affirm the judgment of the trial court.

Notes: Judge Keller delivered a concurring opinion in which she countered the dissent's argument regarding the majority abandoning stare decisis (see below) with the argument that it was [Geesa](#) that failed to follow stare decisis. Judge Holland delivered a concurring opinion in which she was joined by Judge Johnson. She argued that she believes the [Geesa](#) instruction "is flawed by its own internal contradictions, confused phrasing and trivialization of the constitutional standard." Judge Meyers delivered a dissenting opinion in which he was joined by Judge Price and in which he criticized the majority for the manner in which it ignored

stare decisis. He, too, would reverse, but he would remand for a harm analysis under [Almanza](#). His dissent is based on the Court's failure to remand in that fashion. Judge Price also delivered a dissenting opinion. He argued that the reasons for overruling [Geesa](#) stated in the majority opinion "may justify rewriting the definition, but they do not justify disposing of a definition altogether."

Comments: ([David A. Schulman](#)) First, I note that when the Court of Appeals reversed this conviction, brother Greenwood said that "This is nothing more than a "set up" case for the Court of Criminal Appeals, as presently constituted, to overrule the [Geesa](#) decision and all other cases based upon it." Looks like he was right, again. Second, while the statement or sentiment that [Geesa](#) was wrong because it ignored a hundred years of precedent is correct, such statement ignores the fact that it was the [State](#) (the late Chris Marshall) who asked the Court to overrule the 100 years of precedence. Additionally, because this decision doesn't adequately address that precedential case law, I'm not sure what will happen. Specifically, in at least the 118 years prior to [Geesa](#), no "reasonable doubt" instruction was given, but the State had to disprove all reasonable outstanding hypothesis raised by its evidence beyond a reasonable doubt [Geesa](#), exchanged that "construct" for the jury instruction. Now that the jury instruction is no longer required, does that mean that the construct is back? I doubt it.