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⌘ Vol. 12, No. 40 - October 11, 2004

Case Name: [The State of Texas v. George Moff](#)

- OFFENSE: State's Appeal (Misapplication of Fiduciary Funds)
- COUNTY: Nueces
- COURT OF APPEALS: Corpus Christi 2003
- C/A CITATION: 133 S.W.3d 648
- C/A RESULT: Order Quashing Indictment Reversed
- CCA. CASE No. PD-0458-03
- DATE OF OPINION: October 6, 2004
- DISPOSITION: Court of Appeals Reversed
- OPINION: Meyers, J. VOTE: 8-0-1
- TRIAL COURT: 94th D/C; Hon. Jack Hunter
- LAWYERS: Michael Hummell (Defense); Doug Norman (State)

Ed Note: This case should not be confused with the Court's previous opinion involving this same defendant (see ⌘, [Vol. 12, No. 14](#); 04/12/2004. That involves separate offense.

⌘ [22.02 Charging Instruments / Notice Requirements / Descriptions \(Misapplication Of Fiduciary Property\)](#): Appellee was the chief appraiser of Nueces County for twenty years. The instant indictment alleged that he had committed numerous fiduciary violations pertaining to property belonging to the Nueces County Appraisal District Board of Directors "On or about and between January 1, 1993 and December 31, 1999 . . ." Appellee filed a motion to quash the indictment for failing to specify which purchases were made without the authorization of the Appraisal District Board of Directors. The trial court granted the motion to quash and ordered the State to re-file its indictment to assert with specificity which purchases were allegedly unauthorized. Finding that the trial court abused its discretion in granting the motion to quash, the Court of Appeals reversed the trial court's order (see ⌘, [Vol. 11, No. 6](#); 02/17/2003).

Holding: Although the indictment correctly tracks the language of the statute, in this type of case, that alone is not sufficient to fulfill the constitutional and statutory requirements of specificity. It is unreasonable to require the defendant to gather evidence and prepare a defense for each of the credit card and cash transactions he made during the seven-year time frame in the indictment. Thus, additional information that is reasonably necessary for the defense to prepare its case must be provided. This is not to say that the State must lay out its case in the indictment, only that the defendant must be informed of the specific transactions that allegedly violate the statute. The trial court must determine whether the notice given to the defendant is sufficient and should quash the indictment if the notice is not specific enough. Therefore, the trial court did not err in quashing the indictment because the State failed to give [Appellee] sufficiently specific notice of the particular act or acts with which he is charged.

Concurring / Dissenting Opinions: Judge Price concurred without note.