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⚖ Vol. 12, No. 50; December 20, 2004

Case Name: [Noel Betancourt Ramon v. The State of Texas](#)

- OFFENSE: Aggravated Sexual Assault
- COUNTY: Kendall
- COURT OF APPEALS: San Antonio 2003
- C/A CITATION: Unpublished
- C/A RESULT: Conviction Affirmed
- CCA. CASE No. PD-2030-03
- DATE OF OPINION: December 15, 2004
- DISPOSITION: Court of Appeals Affirmed
- OPINION: Johnson, J. VOTE: 9-0
- TRIAL COURT: 216th D/C; Hon. Steve Ables
- LAWYERS: Adam Kobs (Defense); Bruce Curry (State)

⚖ **338 Prosecutorial Misconduct / Prosecutor as a Witness:** During Appellant's trial for aggravated sexual assault, the trial court allowed the prosecutor to take the stand and testify about a collateral matter, over defense objection. Citing the creation of "false impressions" by defense counsel, she revealed the substance of pre-trial negotiations with defense counsel. The defense was not permitted to cross-examine the prosecutor, and after a sidebar discussion, the trial court sustained the defense motion to strike the prosecutor's testimony. The court instructed the jury to disregard the prosecutor's testimony, but denied the defense request for a mistrial. The prosecutor continued to prosecute the case and made reference to the subject of her testimony during closing arguments. Nevertheless, the Court of Appeals affirmed the conviction, finding that Appellant's "substantial rights" were not affected.

Holding: Given the strength of the evidence against Appellant, the court's instruction to the jury to disregard the prosecutor's testimony, and the tangential nature of that testimony, we do not find an abuse of discretion in the trial court's failure to declare a mistrial. Therefore, we affirm the judgment of the Court of Appeals.