




TIBA TEXAS INDEPENDENT BAR ASSOCIATION

Post Office Box 783
Austin, Texas 78767
Tel. 512-850-6544



Web Site: www.texindbar.org

 Vol. 3, No. 37 -- December 21, 1995

CAUSE NAME NO. JUDGE	CITATION CITY/YEAR C/A RESULT	OFFENSE	COUNTY	DISPOSITION
Brown v. State 852-94 Meyers, J	878 S.W.2d 695 Ft. Worth 1994 T/C Affirmed	Possession of Marihuana	Tarrant	C/A Affirmed

Summary: Appellant was arrested after a brief stand-off with two Ft. Worth police officers in which he first pointed a gun at one of the officers then pointed at his own head before surrendering. An inventory search of his automobile revealed two large plastic bags inside the trunk. Inside each plastic bag, wrapped in yet another plastic bag, was a burlap sack. Each burlap sack contained marihuana. On direct appeal, Appellant challenged the sufficiency of the evidence, arguing that because there was no evidence that appellant did anything more than operate the car, the evidence is not sufficient to “affirmatively link” him to the marijuana. The Court of Appeals held that the “affirmative links test was no longer viable, in light of Geesa v. State, 820 S.W.2d 154 (Tex.Cr.App. 1991), and affirmed the conviction.

Sufficiency of the Evidence - Possession of Controlled Substance - Affirmative Links: (1) Under Texas law, an accused must not only have exercised actual care, control, or custody of the substance, but must also have been conscious of his connection with it and have known what it was, evidence which affirmatively links him to it suffices for proof that he possessed it knowingly, and thus, the so-called “affirmative links” rule requires that the evidence must establish, to the requisite level of confidence, that the accused’s connection with the drug(s) in question was more than just fortuitous. (2) Geesa did not “significantly compromise” the Court of Criminal Appeals’ “affirmative links” case law.

NOTE: The Court says that although the Court of Appeals incorrectly held that Geesa did away with the affirmative links doctrine, it still did the appropriate affirmative links test, and because the Court of Appeals used the correct analysis, it reached the correct decision.

COMMENT ([David A. Schulman](#)) This opinion properly interprets prior case law. The State has never been required to prove any affirmative link, it was simply part of the analysis in possession cases where the State’s proof was circumstantial evidence. This opinion properly interprets previous case law. Because the affirmative links test was simply a tool used by the appellate courts, separate and distinct from the “other reasonable hypothesis” analytical construct, it was unaffected by the Court’s decision in Geesa.