

# Transcript of the Testimony of **Trial Excerpt**

**Date:** October 29, 2013

**Volume:** I

**Case:** State of Texas v. Tran

Printed On: November 11, 2013

Allied Court Reporters  
Phone:(817) 335-5568  
Fax:(817) 334-0754  
Email:alliedfwtx@aol.com  
Internet:

REPORTER'S RECORD  
VOLUME 1 OF 1  
CAUSE NO. 1213310

THE STATE OF TEXAS                                    ) COUNTY CRIMINAL COURT  
  )  
VS.    ) NO. 4  
  )  
DAVID DUC TRAN                                        ) TARRANT COUNTY, TEXAS

\*\*\*\*\*

TRIAL EXCERPT

\*\*\*\*\*

On the 29th day of October, 2013, the following proceedings came on to be heard in the above-titled and numbered cause before the Honorable Jerry Ray, Judge presiding, held in Fort Worth, Tarrant County, Texas:

Proceedings reported by stenographic method.

JENNIFER BULLARD, TEXAS CSR NO. 8450  
Deputy Official Court Reporter  
County Criminal Court No. 4  
5208 Airport Freeway, Suite 105  
Fort Worth, Texas 76117  
(817) 335-5568

A P P E A R A N C E S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Ms. Rachel Anne Romano Ackermann  
SBOT No. 24072526  
Mr. Benson Varghese  
SBOT No. 24063683  
Tarrant County District Attorney's Office  
401 West Belknap  
Fort Worth, Texas 76196  
(817) 884-1400  
ATTORNEYS FOR THE STATE

Mr. Jay Gilbert Caballero  
SBOT No. 24006941  
Law Office of Jay Caballero  
902 South Jennings Avenue  
Fort Worth, Texas 76104  
(817) 870-0447  
(817) 870-2781 FAX  
ATTORNEY FOR THE DEFENDANT

1 INDEX  
2 TRIAL EXCERPT  
3 VOLUME 1 OF 1

4	OCTOBER 29, 2013	PAGE
5	Caption page . . . . .	1
6	Appearances. . . . .	2
7	Proceedings. . . . .	4
8	End of excerpt . . . . .	7
9	Reporter's Certificate . . . . .	8

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 P R O C E E D I N G S

2 (Beginning of requested excerpt.)

3 (Tuesday, October 29, 2013, at 4:16 p.m.)

4 (Jury present.)

5 THE COURT: Thank you. Be seated in the  
6 courtroom. All right. The record will reflect that the  
7 jury has advised the bailiff that they have reached a  
8 verdict, and they -- the jury has returned to the  
9 courtroom. The Defendant is present with counsel.  
10 State's attorneys are present.

11 Ms. Kingman, were you drafted as the  
12 presiding juror?

13 FOREPERSON KINGMAN: Yes.

14 THE COURT: Has the jury reached a verdict?

15 FOREPERSON KINGMAN: Yes.

16 THE COURT: Is it a unanimous verdict?

17 FOREPERSON KINGMAN: Yes.

18 THE COURT: All right. Would you hand the  
19 charge with the verdict form to the bailiff to deliver  
20 it to the Court?

21 (Documents handed to Bailiff.)

22 THE COURT: All right. The verdict form  
23 reads as follows: We, the jury, find the Defendant not  
24 guilty, signed Judith Kingman as the presiding juror.

25 Is that your verdict, ladies and gentlemen,

1 and so say you all?

2 (Jurors respond affirmatively.)

3 THE COURT: All right. I'll accept your  
4 verdict. As a result of that verdict, it is the  
5 judgment of the Court that the Defendant is not guilty.  
6 You are discharged.

7 Mr. Tran, your bondsman is released from  
8 any obligation on the bond, and you're admonished or  
9 advised by the Court that you have rights regarding  
10 expunction of your arrest in this case. Talk to your  
11 attorney about those rights. When there is a not guilty  
12 verdict, you have a right to have the arrest removed  
13 from the law enforcement criminal history records.

14 You got lucky. You absolutely are legally  
15 guilty of this offense. But the jury has returned this  
16 verdict, and the Court's obligated to accept that  
17 verdict, and you are found not guilty. You should not  
18 have been drinking, period, zero --

19 MR. TRAN: I agree.

20 THE COURT: -- zip. Not just that night,  
21 but any night. You still shouldn't, you're not 21.

22 MR. CABALLERO: He -- He is actually now.

23 THE COURT: You are 21?

24 MR. CABALLERO: Yes.

25 THE COURT: I thought you were 17.

1 MR. CABALLERO: At the time.

2 THE COURT: At the time, that was three  
3 years ago. My math must be off.

4 MR. CABALLERO: Yeah, in September he  
5 turned...

6 THE COURT: Okay. Well, you're discharged,  
7 and you're excused.

8 MR. CABALLERO: Thank you, Judge.

9 THE COURT: Court is adjourned.

10 Ladies and gentlemen, you'll be released.  
11 The bailiff has the document to take you to jury  
12 administration or jury release. And they will pay you,  
13 I think it should be somewhere around \$46 or --

14 BAILIFF: I believe so, Your Honor.

15 THE COURT: -- \$40, something like that.  
16 It -- It would appear, ladies and gentlemen, that you --  
17 You know, and I've been at this such a long time I know  
18 better than to get angry. But you just decided to  
19 ignore the law and your oath, and you know you did. The  
20 note that you sent out says, Can we ignore the  
21 Intoxilyzer. And you have the definitions of  
22 intoxication. And they were certainly -- At least that  
23 one was very plain in this case and up on the board for  
24 you to see. And for whatever reasons, you chose to  
25 ignore that part of the evidence. And you have the

1 right to do that. It's called jury nullification. It's  
2 when a jury decides to ignore the law or ignore the  
3 evidence. And they just want a certain outcome, and  
4 they maneuver until they get there. Perfect example,  
5 the O.J. Simpson trial. He clearly committed murder,  
6 and the jury didn't want to convict him, so they found a  
7 way to -- to render a not guilty verdict. So it  
8 happens. I've been around over 40 years in this  
9 profession, tried an awful lot of cases as a defense  
10 lawyer, as a prosecutor, and as a judge, and it happens.  
11 But this ranks among there as one of the most bizarre  
12 verdicts that I've seen. Thank you for your service,  
13 and you are excused.

14 MR. CABALLERO: Are we adjourned?

15 THE COURT: We're adjourned.

16 (End of requested excerpt.)  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 THE STATE OF TEXAS )  
2 COUNTY OF TARRANT )

3 I, Jennifer Bullard, Deputy Official Court Reporter  
4 in and for the County Criminal Court No. 4 of Tarrant  
5 County, State of Texas, do hereby certify that the above  
6 and foregoing contains a true and correct transcription  
7 of all portions of evidence and other proceedings  
8 requested in writing by counsel for the parties to be  
9 included in this volume of the Reporter's Record, in the  
10 above-styled and numbered cause, all of which occurred  
11 in open court or in chambers and were reported by me.

12 I, Jennifer Bullard, further certify that this  
13 Reporter's Record of the proceedings truly and correctly  
14 reflects the exhibits, if any, admitted by the  
15 respective parties.

16 I further certify that the total cost for the  
17 preparation of this Reporter's Record is \_\_\_\_\_ and was  
18 paid/will be paid by Mr. Benson Varghese.

19 WITNESS MY OFFICIAL HAND this the 11th day of  
20 November, 2013.

21 \_\_\_\_\_  
22 JENNIFER BULLARD, CSR NO. 8450  
23 Expiration Date: 12/31/14  
24 Deputy Official Court Reporter  
25 County Criminal Court No. 4  
5208 Airport Freeway, Suite 105  
Fort Worth, Texas 76117  
(817) 335-5568