

2023 ROBERT O. DAWSON  
**CONFERENCE ON CRIMINAL APPEALS**



May 10–12, 2023  
Sheraton Austin Hotel at the Capitol ■ Austin, Texas  
📍 Live Webcast May 10–12

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*Times listed are in Central Time*

**WEDNESDAY AFTERNOON, MAY 10, 2023**

**Presiding Officer:**

**Hon. Barbara P. Hervey, Texas Court of Criminal Appeals, Austin, TX**

**12:30 p.m. Registration Opens**

Includes light refreshments.

**1:20 p.m. Welcoming Remarks**

**1:30 p.m. 1.00 hr**

**Significant Decisions of the Texas Court of Criminal Appeals**

Analyze significant decisions in the last year and what they mean for criminal law practitioners.

Hon. David C. Newell, Texas Court of Criminal Appeals, Austin, TX

**2:30 p.m. 1.00 hr**

**Supreme Court Update**

Hear an update on criminal law and criminal procedure cases relevant to Texas criminal appellate practice that were heard and decided by the United States Supreme Court in the 2022 term, and get a preview of hot cases in the pipeline for the 2023 term.

Jennifer E. Laurin, The University of Texas School of Law, Austin, TX

**3:30 p.m. 15-Minute Break**

**3:45 p.m. .50 hr**

**What's the Meaning of This? Making Sense of Statutory Interpretation**

Discover how courts find meaning through applications of well-known and obscure canons of construction, explore the convergence and divergence of judicial philosophies to interpretation, and probe recent developments in the law of interpretation.

Emily Johnson-Liu, Office of the State Prosecuting Attorney, Austin, TX

**4:15 p.m. 1.00 hr**

**Writs**

Discuss the law of 11.07 habeas corpus with tips for writ practice at the Court of Criminal Appeals.

Michael Staats Falkenberg, Harris County Public Defender's Office, Houston, TX

**5:15 p.m. Adjourn to Reception**

**THANK YOU TO OUR RECEPTION SPONSORS**

**Criminal Justice Section of the State Bar of Texas**

**Appellate Section of the State Bar of Texas**

**5:15 p.m. – 6:15 p.m.**

Enjoy refreshments and a networking opportunity with colleagues and conference faculty.

**THURSDAY MORNING, MAY 11, 2023**

**Presiding Officer:**

**Hon. David C. Newell, Texas Court of Criminal Appeals, Austin, TX**

**8:30 a.m. Conference Room Opens**

Includes continental breakfast.

**9:00 a.m. 1.00 hr**

**Appellate Practice 101**

"Get your fundamentals down and the level of everything you do will rise" – Michael Jordan. Practical tips and TRAP awareness for better brief writing and advocacy in every stage of the appellate process, whether it's your first appeal or hundred and first.

Britt Houston Lindsey, Taylor County District Attorney's Office, Abilene, TX

Hon. Jeff Propst, 104<sup>th</sup> District Court, Abilene, TX

**10:00 a.m. .50 hr**

**Plot Ye Course: Petitions for Discretionary Review and Motions for Rehearing**

Plot ye course for (1) filing a Petition for Discretionary in the Court of Criminal Appeals after you've been marooned on loser island by an intermediate court of appeals and (2) seeking rehearing after the Court of Criminal Appeals tells you to walk the plank.

Stacey M. Soule, Office of the State Prosecuting Attorney, Austin, TX

**10:30 a.m. 15-Minute Break**

**10:45 a.m. .50 hr**

**Mandamus**

Learn rules governing the form and content of petitions for writ of mandamus, as well as jurisdictional and substantive requirements to obtain mandamus relief, from both a defense and prosecution perspective.

Hon. Rosa Theofanis, Third Court of Appeals of Texas, Austin, TX

**11:15 a.m. .50 hr**

**Chapter 64 Motions**

A brief overview on the legal and ethical considerations for Chapter 64 Motions.

Sarah Moore, First Assistant District Attorney, 106<sup>th</sup> Judicial District, Lamesa, TX

**11:45 a.m. .50 hr**

**Forensic Evidence and Appeals**

Address forensic science issues on appeal.

Carson R. Guy, Texas Court of Criminal Appeals, Austin, TX

**12:15 p.m. Pick Up Lunch**

Included in registration.

**M  
C  
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E**

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.25 hours, of which 2.25 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

## THURSDAY AFTERNOON

### Presiding Officer:

Hon. David C. Newell, Texas Court of Criminal Appeals, Austin, TX

12:35 p.m. .75 hr

### "More is Lesser" Defense Instructions

A discussion on recent decisions from the Court of Criminal Appeals involving defensive instructions including self-defense, necessity, and a potpourri of other defenses.

Hon. Jesse McClure, Texas Court of Criminal Appeals, Austin, TX

1:20 p.m. 15-Minute Break

1:35 p.m. .75 hr

### Practical Suppression Issues on Appeal

A discussion on preserving at the trial level, for appellate purposes, 4<sup>th</sup> Amendment search and seizure issues and presenting these issues on appeal.

Michael C. Gross, Gross & Esparza, P.L.L.C.,  
San Antonio, TX  
Nathan E. Morey, Bexar County District Attorney's  
Office, San Antonio, TX

2:20 p.m. .50 hr

### Preservation of Error for the Appellate Practitioner

Highlighting the best practices and common mistakes related to preservation in the trial court and how to make the best of error on appeal to ensure a better appellate outcome.

Carmen Roe, Carmen Roe Law Firm, PLLC,  
Houston, TX

2:50 p.m. 10-Minute Break

3:00 p.m. .75 hr ethics

### Beyond "If you have to ask...": Understanding *Brady* and the Michael Morton Act in 2023

The Court of Criminal Appeals issued the landmark case of *Watkins v. State* in 2021, offering the Court's interpretation of key language in the Michael Morton Act. The Court explained that the Act "removes procedural hurdles to obtaining discovery, broadens the categories of discoverable evidence, and expands the State's obligation to disclose." Since then, Texas courts have issued several more published cases interpreting *Watkins*, *Brady*, and the Act itself. This presentation will explore the path that this precedent has taken and where it may be headed next.

Holly Taylor, Travis County District Attorney,  
Austin, TX

3:45 p.m. 1.00 hr | .25 hr ethics

### A Peek Behind the Curtain

Court of Appeals justices discuss what goes into their decision-making, how to make them more receptive to your briefs (or not), and other factors to improve your appellate practice. Audience members will have the chance to ask questions. Please submit your questions in advance to [ConferenceQA@utcle.org](mailto:ConferenceQA@utcle.org) or on-site at the conference registration desk.

#### Moderator:

Jay Brandon, Bexar County District Attorney's Office,  
Appeals Section, San Antonio, TX

#### Panelists:

Hon. Sarah Beth Landau, First Court of Appeals of  
Texas, Houston, TX  
Hon. Gisela D. Triana, Third Court of Appeals of  
Texas, Austin, TX

4:45 p.m. Adjourn

## FRIDAY MORNING, MAY 12, 2023

### Presiding Officer:

Hon. Barbara P. Hervey, Texas Court of Criminal Appeals, Austin, TX

8:30 a.m. Conference Room Opens

Includes continental breakfast.

9:00 a.m. 1.00 hr ethics

### Ethics of Criminal Appellate Practice

Ethical representation is required at the appellate level as well as the trial level. Explore rules of ethics and situations specifically centered on appellate representation.

Stephanie L. Stevens, St. Mary's University School of  
Law, San Antonio, TX

10:00 a.m. .50 hr

### Standards of Review: What Chance Does My Argument Have of Prevailing on Appeal?

An overview of the most common standards for reviewing trial court rulings on appeal as well as suggestions for effectively synthesizing the applicable standard of review with the pertinent facts and controlling authority for issues presented in any case.

Michelle R. Townsend, Ector County District  
Attorney's Office, Odessa, TX

10:30 a.m. 15-Minute Break

10:45 a.m. .50 hr

### Drafting Findings of Fact and Conclusions of Law

Practical tips for post-conviction litigators: drafting proposed Findings of Fact; increasing the likelihood they will be adopted; and framing the issues for favorable review.

Catherine G. Burnett, South Texas College of Law  
Houston, Houston, TX

11:15 a.m. 1.00 hr | .25 hr ethics

### Court of Criminal Appeals Judicial Panel

Hear a panel of judges respond to your frequently—and sometimes infrequently—asked questions. Please submit your questions in advance to [ConferenceQA@utcle.org](mailto:ConferenceQA@utcle.org) or on-site at the conference registration desk.

#### Moderator:

Alison Fox Dahlberg, Texas Court of Criminal  
Appeals, Austin, TX

#### Panelists:

Hon. Barbara P. Hervey, Texas Court of Criminal  
Appeals, Austin, TX  
Hon. Jesse McClure, Texas Court of Criminal  
Appeals, Austin, TX  
Hon. David C. Newell, Texas Court of Criminal  
Appeals, Austin, TX  
Hon. Bert Richardson, Texas Court of Criminal  
Appeals, Austin, TX

12:15 p.m. Adjourn



UT Law CLE is committed to helping attorneys meet their annual Texas MCLE requirements. Following the event, registrants will receive a free, on-demand eSupplement that will bring their total available hours to 15.00, including 3.00 hours of ethics.

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Are you a 1<sup>st</sup> or 2<sup>nd</sup> year attorney? Attend  
most UT Law CLE conferences for just \$150!

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## CONFERENCE FACULTY

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Bexar County District Attorney's Office, Appeals  
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San Antonio, TX

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First Court of Appeals of Texas  
Houston, TX

HON. BERT RICHARDSON

Texas Court of Criminal Appeals  
Austin, TX

CATHERINE G. BURNETT

South Texas College of Law Houston  
Houston, TX

JENNIFER E. LAURIN

The University of Texas School of Law  
Austin, TX

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Carmen Roe Law Firm, PLLC  
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St. Mary's University School of Law  
San Antonio, TX

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Gross & Esparza, P.L.L.C.  
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SARAH MOORE

First Assistant District Attorney, 106th Judicial District  
Lamesa, TX

HOLLY TAYLOR

Travis County District Attorney  
Austin, TX

CARSON R. GUY

Texas Court of Criminal Appeals  
Austin, TX

NATHAN E. MOREY

Bexar County District Attorney's Office  
San Antonio, TX

HON. ROSA THEOFANIS

Third Court of Appeals of Texas  
Austin, TX

HON. BARBARA P. HERVEY

Texas Court of Criminal Appeals  
Austin, TX

HON. DAVID C. NEWELL

Texas Court of Criminal Appeals  
Austin, TX

MICHELLE R. TOWNSEND

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Odessa, TX

EMILY JOHNSON-LIU

Office of the State Prosecuting Attorney  
Austin, TX

HON. JEFF PROPST

104<sup>th</sup> District Court  
Abilene, TX

HON. GISELA D. TRIANA

Third Court of Appeals of Texas  
Austin, TX

## PLANNING COMMITTEE

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Texas Court of Criminal Appeals  
Austin, TX

JAY BRANDON

Bexar County District Attorney's Office, Appeals  
Section  
San Antonio, TX

CARSON R. GUY

Texas Court of Criminal Appeals  
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## HOW TO REGISTER

### Online:

www.utcle.org/conferences/CR23/signup

### Mail:

The University of Texas  
School of Law  
ATTN: CLE  
PO Box 7759  
Austin, TX 78713-7759

### Fax:

512.475.6876

Questions? 512.475.6700

If you have dietary requirements or would like to request accommodations under the ADA, please contact Customer Service at 512.475.6700 or service@utcle.org at least 10 days prior to the conference.

## REGISTRATION BENEFITS

**Comprehensive Course Materials:** Access course materials in "Your Briefcase" approximately 48 hours before the live event, and enjoy unlimited access to the final, complete course materials – downloadable PDFs of papers and slides.

**Accredited eConference:** Complimentary access to the eConference – with papers, slides, and video – accredited for one year in both TX and CA are available in "Your Briefcase" 6–8 weeks after the event.

**TX MCLE Credit Reporting:** UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track the Texas MCLE credit reported on your behalf at "Your Account" after you've logged in at www.utcle.org.

## TROUBLE LOGGING IN?

A UT Law CLE account is created for conference attendees and product customers with information provided on the order form. An email address will serve as the User Name.

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## REGISTRATION FORM

PLEASE PRINT CLEARLY

CR23

Bar Card # \_\_\_\_\_  TX  Other State: \_\_\_\_\_  N/A

Name [ Mr. / Ms. ] \_\_\_\_\_

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City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Registrant's Email (required) \_\_\_\_\_

Assistant's Email (optional) \_\_\_\_\_  
*Invoices, confirmations, and receipts are emailed to these addresses.*

### EVENT REGISTRATION

*Includes Electronic Course Binder Download (PDF) in "Your Briefcase." Special group registration rates available. Call 512.475.6700.*

- Live, In-Person Event Registration . . . . . \$550 | \$600 after May 3  
 Live Webcast Registration . . . . . \$550 | \$600 after May 3

**Printed and Shipped Binder with Registration (Shipping Included)** – Available for order through Friday, May 12, 2023

*Please note that the printed binder will arrive 2–3 weeks after the scheduled webcast. Delivery to P.O. boxes is not permitted. Binders will not be distributed on-site.*

- Printed and Shipped Course Binder . . . . . \$70.36 (\$65\*)

### Webcast Add-on

*Register for the in-person conference and add on the webcast format for attendance flexibility.*

- Webcast Add-on . . . . . \$75

**TOTAL EVENT REGISTRATION \$ \_\_\_\_\_**

**FIRST AND SECOND YEAR ATTORNEYS MAY ATTEND FOR JUST \$150! CALL 512.475.6700 TO REGISTER.**

### POST-CONFERENCE PRODUCTS

#### eConference – For Texas and California MCLE Credit

*Includes Electronic Course Binder Download (PDF) and program video/audio. Available 6-8 weeks after live event. Hours may vary depending on actual event runtime.*

- Individual eConference . . . . . \$600

#### Post-Course Binder – For Research and Self-Study

*Comprehensive binder with papers and slides, available for delivery 4–6 weeks after live event.*

- Electronic Post-Course Download (PDF) . . . . . \$265.21 (\$245\*)  
 Printed Post-Course Binder . . . . . \$319.34 (\$295\*)

**TOTAL POST-CONFERENCE PRODUCTS \$ \_\_\_\_\_**

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- Check (make check payable to The University of Texas at Austin)  
 VISA  MasterCard  American Express  P.O. (include a copy of the purchase order upon submission)

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**AUSTIN**

May 10–12, 2023

**CONFERENCE LOCATION**



**Sheraton Austin Hotel at the Capitol**

701 E. 11<sup>th</sup> Street  
 Austin, TX 78701  
 512-478-1111

1-888-627-8349 (reservations)

**Accommodations:**

Room block information will be emailed to registered attendees once it becomes available.

**Parking:**

Please visit [www.utcle.org/conferences/CR23](http://www.utcle.org/conferences/CR23) for parking information.

**KEY DATES**

**May 3, 2023**

*Last day for early registration rates*

**May 5, 2023**

*Last day for full refund cancellation*

**May 8, 2023**

*Last day for partial refund cancellation*

\$50 processing fee applied

**May 10, 2023, 1:20 p.m., CT**

*Conference begins*

**May 12, 2023**

*Last day to order a printed and shipped course binder with in-person or webcast conference registration.*

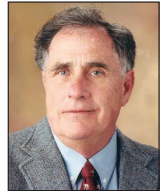
**ROBERT O. DAWSON**

The Conference on Criminal Appeals is named in honor of Robert O. Dawson, a beloved UT Law professor for 37 years, who passed away in 2005.

From 1974 through 1998, he served as the director of the Criminal Defense Clinic, where he and his co-supervisors worked with students on over 7,200 criminal defendants' cases. He also served as co-director of UT Law's Actual Innocence Clinic, a clinic teaching students how to screen and investigate claims from prison inmates that they are actually innocent of their convicted offense.

As a reformer and scholar, Professor Dawson wrote extensively on criminal and juvenile law and drafted much of the juvenile legislation enacted by the Texas legislature over the past 35 years.

He authored and co-authored many books, including *Texas Criminal Practice and Procedure*, *Texas Juvenile Law*, *Criminal Justice Administration*, and *The Juvenile Justice Process*.



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