MOTION FOR NEW TRIAL

BY: CARMEN ROE | CARMEN ROE LAW FIRM

The Defense Perspective

Motion Requirements

Prerequisites of Motion

- Must be in writing
- Present reasonable grounds that if true entitle you to relief
- Must be verified under oath (attached to materials at p.18)

Affidavit

- Attaching to the motion is **not** sufficient
- Must be sworn to by a person with knowledge of relevant facts
- Must be admitted into evidence (must get a hearing in every case)

Garcia v. State

Affidavit cannot be attached to motion; trial court could not deny hearing based on possibility that information in affidavit was no based on personal knowledge, affidavits were sufficient to establish prima facie case for new trial.

291 S.W.3d 1 (Tex.App.-Corpus Christi, 2008)

UT LAW CLE | THE UNIVERSITY OF TEXAS | TEXAS LAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Prosecuting and Defending Motions for New Trial

Also available as part of the eCourse
Criminal Appeals 2018: Jury Charges, Motions for New Trial, Morton and Brady Case Law Updates, and more

First appeared as part of the conference materials for the
2018 Robert O. Dawson Conference on Criminal Appeals session
"Prosecuting and Defending Motions for New Trial"