

# How to Improve Your Brief Writing

2018 Robert O. Dawson  
Conference on Criminal Appeals

## Five keys

- Provide the tools of decision-making
- Aim for the Goldilocks moment
- Represent authority accurately
- Guide the reader carefully
- Edit with distance

## Hypothetical

Your client's girlfriend found his iPhone wrapped up in her sweater at work. She decided to access the photos to delete any unflattering pictures of herself. Instead, she found child pornography and took it to the police. You want to argue that the evidence was obtained illegally and should have been excluded at trial.

## Relevant statute

"A person commits an offense if the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner."

Tex. Pen. Code § 33.02

## Effective consent?

The girlfriend says she had accessed your client's other phone in the past, without complaint, and that they often looked at pictures together on his phone. She testified that she didn't think she was "doing anything wrong by looking at his phone."

## What do you want to know?

Effective consent is "consent by a person legally authorized to act for the owner," and consent is not effective if the consent is "used for a purpose other than that for which the consent was given."

Tex. Pen. Code § 33.01(12)

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