

# Legal Writing Just Means It's Not Against the Law, Right?

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# DELVE DEEPER

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“I want to write a great opinion but I don’t want to take too much time to do it.”

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If an alternate juror retires with the jury and is present during deliberation, ...

at what point is an appellant’s objection to the thirteenth juror’s presence timely made:

when the jury retires to deliberate, or  
when an appellant becomes aware that the alternate is present during deliberations?

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We conclude that the grounds for Appellant's objection to the alternate juror being sent into the jury room were not apparent until counsel became aware of the error...

Because Appellant's objection, motion for mistrial, and motion for new trial were timely, the court of appeals erred by failing to reach the merits of Appellant's statutory and constitutional claims."

*Becerra v. State*, PD-0804-19 (Tex. Crim. App. Delivered April 14, 2021)

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## Statement of the Issue

- ▶ Was Appellant deprived of a complete defense by the trial court's refusal to attach a missing witness? Yes. The witness had been properly subpoenaed and defense counsel gave a proffer to the court saying the missing witness was the only person who could support Appellant's alibi.

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