

FINDINGS OF FACT: Critical, Underused Advocacy Tool

CATHERINE GREENE BURNETT

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Georgetown Law
School Writing
Center

State Prosecuting
Attorney's Office

Texas Court of
Criminal Appeals
former writ staff –
Michael Falkenberg
and Michael
Stauffacher

David Keltner
Robert Dubose
Andrea Jacobs
Baldwin Chin

It takes a
village
thanks to

2

STANDARDS OF REVIEW

3

Standards of Review:
Potential Role in
Crafting
Proposed
Findings

Can be a game changer –
when advocate uses
strategically, depending on
specific case

Differing standards are
function of discrete
institutional roles between
trial and appellate courts

4



Strategy

Reframe

Recast

Move left or right on the sliding scale to a more favorable standard for your case theory

5

DEFERENCE CONTINUUM

No

De Novo

Questions
of Law

Moderate

Abuse of
Discretion

Credibility

Great

Clearly
Erroneous

Questions
of Fact

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[2023 Robert O. Dawson eConference on Criminal Appeals](#)

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"Drafting Findings of Fact and Conclusions of Law"