

# FINDINGS OF FACT: Critical, Underused Advocacy Tool

CATHERINE GREENE BURNETT

© 2023

1

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

6

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Findings of Fact: Critical, Underused Advisory Tool

Also available as part of the eCourse

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

First appeared as part of the conference materials for the  
2023 Robert O. Dawson Conference on Criminal Appeals session  
"Drafting Findings of Fact and Conclusions of Law"