

FINDINGS OF FACT: Critical, Underused Advocacy Tool

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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
Stauffer

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

DEFERENCE CONTINUUM

No

De Novo

Questions
of Law

Moderate

Abuse of
Discretion

Credibility

Great

Clearly
Erroneous

Questions
of Fact

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

Also available as part of the eCourse

[Practical Guidance in Criminal Appeals Practice \(2023\): Statutory Interpretation, Discretionary Review, Preservation of Error, and More](#)

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"Drafting Findings of Fact and Conclusions of Law"