

FINDINGS OF FACT: CRITICAL, UNDERUSED ADVOCACY TOOL

Catherine Greene Burnett

© 2024

1

Georgetown Law School Writing
Center
State Prosecuting Attorney's Office
Texas Court of Criminal Appeals
former writ staffers – Michael
Falkenberg and Michael Stauffacher

David Keltner
Robert Dubose
Andrea Jacobs
Baldwin Chin

IT TAKES A VILLAGE THANKS TO



2

1

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

No	Moderate	Great
De Novo	Abuse of Discretion	Clearly Erroneous
Questions of Law	Credibility	Questions of Fact

DEFERENCE CONTINUUM



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: Finding of Fact: Critical, Underused Advocacy Tool

Also available as part of the eCourse

[2024 Robert O. Dawson eConference on Criminal Appeals](#)

First appeared as part of the conference materials for the
2024 Robert O. Dawson Conference on Criminal Appeals session
"Drafting Findings of Fact and Conclusions of Law"