



## **Court of Criminal Appeals Case Law Update**

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By "All Time" I mean  
September - May 2018  
By "Cases" I mean  
CCA Cases  
By "Greatest" I mean  
Published Cases I picked  
And by "10" I mean  
**OF ALL TIME**  
At least 15



# "10"

- Kelvin O'Brien and three others planned jewelry heist
  - Stole four million in gold
  - Melted gold and sold it
- Engaging in Organized Criminal Activity by commission
  - Theft
  - Money laundering
- Jury charge treated predicate offenses as manner and means

*O'Brien v. State,*  
May 2, 2018





*O'Brien v. State,*  
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Does the jury have to be unanimous  
about predicate offenses?

- CCA says no – 5 to 4
- Two – step analysis
  - What is gravamen of offense?
  - Lack of unanimity violate due process?
- Gravamen is circumstance of conduct
  - “one or more of the following”
- Predicate offenses are “morally and conceptually equivalent”

*O'Brien v. State,*  
May 2, 2018



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## Title search: Significant Decisions of the Texas Court of Criminal Appeals

First appeared as part of the conference materials for the  
2018 Robert O. Dawson Conference on Criminal Appeals session  
"Significant Decisions of the Texas Court of Criminal Appeals"