



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0064-20

JUAN CARLOS FLORES, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FIFTH COURT OF APPEALS
GRAYSON COUNTY**

KEEL, J., filed a dissenting opinion in which HERVEY, J., joined.

DISSENTING OPINION

Appellant intended to intimidate, manipulate, and steal from his victim, and he accomplished his objectives by brandishing a menacing-looking object that turned out to be a drill. In demanding and enforcing his victim's submission, he said, "I don't want to hurt you." The unspoken-but-clear threat was, "But I will if I have to." Under these circumstances, any rational jury could find beyond a reasonable doubt that Appellant did indeed intend to use the drill in a way that could cause serious bodily injury. The fact

that the clerk submitted and thus averted the need for him to hurt her does not absolve him of his malicious intent. The majority errs to substitute its own judgment for that of the jury. So, I respectfully dissent.

Filed: March 31, 2021

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