



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0284-25

THE STATE OF TEXAS

v.

BOBBY CARL LENNOX, Appellee

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SIXTH COURT OF APPEALS
LAMAR COUNTY**

NEWELL, J., filed a concurring opinion in which RICHARDSON and WALKER, JJ., joined.

The forgery statute is messed up. The Legislature screwed it up when it decided to add a value ladder to the statute in the way that it did.¹ Conceptually, it

¹ See Floor Amend. 4 to Tex. H.B. No. 351, 85th Leg., R.S. (May 24, 2017) (offered by Sen. Burton). The original bill was focused on fines and court costs and not the forgery statute or attaching a value ladder to it. See H.B. No. 351, 85th Leg., R.S. (Tex. 2017) (introduced by

leads to two provisions in the same statute that cannot co-exist.² I believe the Court properly construes a bad statute as it was written. I would also add that the way the statute was written leads to absurd results. And with no real extra-textual sources to suggest any intent by the Legislature, the only thing this Court can say with any confidence is the Legislature wanted to apply a value ladder to the forgery statute. Without any more clear guidance to resolve this irreconcilable textual ambiguity, I believe the rule of lenity requires this Court to call the “tie” in favor of the defendant.³ As the Court’s analysis leads to the same result, I join the Court’s opinion.

Filed: January 29, 2026

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Canales); *see also* A Bill to be Entitled an Act, Canales, Tex. H. Comm. Rep., 85-762, 85 R.S. (2017).

² Compare Tex. Penal Code § 32.21(e-1), *with* § 32.21(d).

³ See *Wooden v. United States*, 595 U.S. 360, 388-392 (2022) (Gorsuch, J., concurring) (discussing in depth the history and development of the rule of lenity); *Rule of Lenity*, *Black’s Law Dictionary* (11th ed. 2019) (“The judicial doctrine holding that a court, in construing an ambiguous criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment.”); *see also Diruzzo v. State*, 581 S.W.3d 788, 802 n. 22 (Tex. Crim. App. 2019)(noting that the rule of lenity applies when the proper construction of a statute is in insoluble doubt).