

Requisite

I've recently discovered a misapplied rule here in the Texas justice system. I would like to share my discoveries in hopes to help some other victim of this state.

So let me share with you how the State of Texas has been misapplying rule 311.025 to Penal Code 38.04. And this rule applies to several other Penal Codes as well.

First let me share with you what rule 311.025 states. 311.025 if amendments to the same statute are enacted at the same session one making no reference to the other, they shall be harmonized if possible to give effect to each, and if they are irreconcilable then the last reenacted text will prevail.

Now lets look closely at 311.025. This is a commonly used as a general outline and its purpose was for a wide range for several different statutes. Because 311.025 covers several statutes it uses a developing scheme which is reflected in the statute it covers. 311.025 has two parts to it, and if the first half is met with the requirements, the last half never gets developed. In deciding which half is to be applied in 311.025 we must reflect the language inside the statute it is being applied to. When applying 311.025 to P.C. 38.04 we must go to the absolute source and understand legislators intent as it is expressed by the plain and common meaning in the letter of law. 311.025 clearly states that the harmonizing effect shall give power to each. This was the intent legislation had for 38.04. That is why they left the language on the table and inserted a number 1 to the State Jail offense and then dropped down to the next line and inserted a number 2 next to the harmonized offense. Which describes different requirements for a 3rd degree offense. By them labeling the two different punishment with numbers attached individually under the same illustration clearly

emphasize their intent for harmonizing. For if it wasn't their true intent they would of erased the State Jail completely off the table. The legislator was giving the District Courts power to decide the classification based off the requirements of elements committed in the act. Legislation would never attempt to construct a statute that wasn't reflected by the crime, or do away with procedures, elements, punishment schemes, and lose the structure of law behind one statute. The way they have been misapplying the last part of the undeveloped half of 311.025 to P.C. 38.04 is eroding the unified system that builds the structure of law. 38.04 was designed for separate applications which is defined by the elements in the offense. Just like every other law that is established, it must prove elements exist in that type of law its under. And according to the letter of law 311.025 states they shall be harmonized and if they are irreconcilable TITEN the last one will prevail. For the last part of 311.025 to get developed it depends on the first half of 311.025 to fail in the language of the statute to be irreconcilable. If the language is different, then the first part of 311.025 over rides the last half. To see if they are irreconcilable we must go to the statute and compare it to the other. And if the language is different in any way the harmonizing effect prevails. And according to the letter of law concerning P.C. 38.04 clearly illustrates different language that the other does NOT. Prior or previous are Key words Texas uses to use against us for enhancing schemes. Why would we ignore this Key word when applying it to P.C. 38.04. The language of the law and elements is an absolute method that must be applied. Elements exist as a limit or a qualification for classification of legal rules. Our legal system is to regulate human activity and not create them out of the air. They are binding the

bodily injury with regular evading without elements.
So let me give you a clear picture. If I was to
drive 5 miles at 5 miles an hour then finally pulling
over is a 3rd degree felony. But it is also a 3rd degree
if I was to drive 100 miles an hour for 100 miles
and finally crash into someone causing them bodily
harm. It is the same degree. This is not how legislation
intend to apply 38.04.

Sincerely

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