

Violence Can Also Put on the Mask of Law
Est Autem Vis Legem Simulans

Would a murder statute be "just" if an accused party could be convicted of the crime alleged based solely on the uncorroborated testimony of the party accusing? Consider this scenario:

- Person "A" declares that person "B" murdered person "C."
- There is no body to prove that a murder had been committed.
- There are no witnesses to the crime alleged.
- There are no signs of foul play.
- There is only the uncorroborated testimony of person "A" to substantiate the crime alleged.
- But because person "A" declared that person "B" murdered person "C," person "B" is arrested, tried, found to be guilty, and sentenced to life in prison, all for a crime that cannot be proved to have been committed.

This is a direct correlative to what Texas Code of Criminal Procedure, Article 38.07 not only allows, but actively promotes. Consider this scenario:

- Person "A" declares that person "B" murdered person "C" (that is, that person "B" violated the innocence or will (person "C") of person "A.")
- There is no body to prove that a murder had been committed (that is, there is no physical, factual, or actual evidence of the alleged violation).
- There are no witnesses to the crime alleged.
- There are no signs of foul play.
- There is only the uncorroborated testimony of person "A" to substantiate the crime alleged.
- But because person "A" declared that person "B" murdered person "C," person "B" can be, and often is arrested, tried, found to be guilty, and sentenced to decades in prison, all for a crime that cannot be proved to have even been committed.

Here we have a perfect correlation of the former (a hypothetical scenario) with the latter (a scenario that is all too real).

In an opinion issued by the Texas Court of Criminal Appeals, we get, "It's hard to imagine any reasonable jury returning a conviction [in a capital murder trial] when no one can even say confidently that a murder has been committed." Ex parte Robbins, 560 S.W.3d 130 (2016) (Alcala, J., Concurring).

Regarding convictions obtained under Article 38.07, because the article allows for and promotes convictions based solely on the weight of an accusation, with no obligation for the State to prove same, no reasonable jurist could say confidently that the crime alleged had actually been committed.