IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. PD-1561-07

CARLOS LANDRIAN, Appellant

v.

THE STATE OF TEXAS

ON DISCRETIONARY REVIEW OF
CASE 01-05-00697-CR OF THE FIRST COURT OF APPEALS
HARRIS COUNTY

WOMACK, J., filed a concurring opinion, in which KELLER, P.J., and KEASLER, J., joined.

Without implying that there is anything wrong with the Court's analysis of the jury-unanimity issue, I should like to point out that there is no possibility of a non-unanimous verdict for this offense as it was alleged. If half the jury believed the defendant caused serious bodily injury, then they necessarily believed that a deadly weapon was used. A deadly weapon is anything that in the manner of its use was capable of causing serious bodily injury. See Penal Code section 1.07(a)(17)(B). It is impossible to

inflict serious bodily injury without using a deadly weapon. We so held only a couple of months ago. *See Blount v. State*, 257 S.W.3d 712 (Tex. Cr. App. 2008*)*.

Filed October 8, 2008.
Publish.