IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1012-07

BOBBY BLAKE NEWTON, Appellant

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW FROM THE TENTH COURT OF APPEALS BRAZOS COUNTY

***Per curiam*.**

OPINION

A jury found Appellant guilty of indecency with a child and aggravated sexual assault. The jury assessed punishment at confinement for 20 and 60 years, respectively. The Court of Appeals reversed the conviction based on its conclusion that extraneous offense evidence was erroneously admitted to rebut Appellant's defense of fabrication. Newton v. State, __

S.W.3d __ (Tex. App.—Waco No. 10-06-00160-CR, delivered June 13, 2007).

The State has filed a petition for discretionary review contending that the Court of Appeals erred. Recently, in Bass v. State, __S.W.3d__ (Tex. Crim. App. Nos. PD-494-07 and PD-495-07, delivered September 10, 2008), this Court held that extraneous offense evidence may be admitted to rebut a fabrication defense. We noted that, regardless of the type of defense presented, extraneous offense evidence is admissible if it has relevance beyond character conformity.

The Court of Appeals in the instant case did not have the benefit of our opinion in Bass. Accordingly, we grant the State's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this case to the Court of Appeals in light of our opinion in Bass.

DATE DELIVERED: January 14, 2009

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