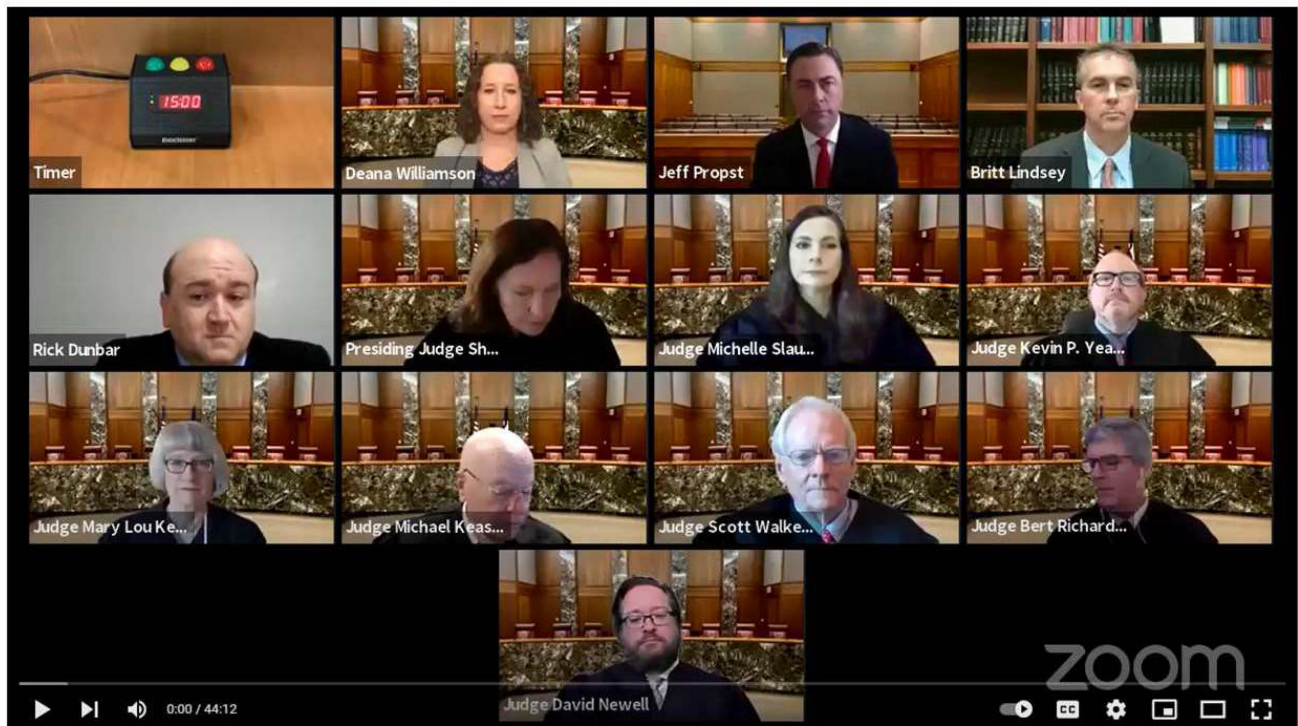


APPELLATE PRACTICE 101

Britt Houston Lindsey,
Taylor County DA's Office

Hon. Jeff Propst,
104th District Court

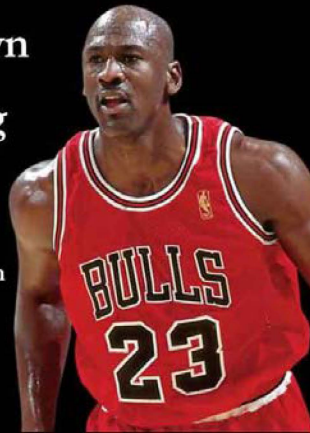
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Get the fundamentals down
and the level of everything
you do will rise.

~ Michael Jordan



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UT LAW CLE THE UNIVERSITY OF TEXAS SCHOOL OF LAW

PRESENTED AT
The 2023 Dawson Conference on Criminal Appeals
May 10-12, 2023
Austin, Texas

Appellate Practice 101

Britt Houston Lindsey and Hon. Jeff Propst

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I. Introduction

There comes a moment in each appellate practitioner's career where they say to themselves "oh, crap, I agreed to present at a conference and now I have to write a paper."

When Judge Propst and I agreed to present "Appellate 101," I was daunted because the topic is so broad. The more I ruminated on it, though, the more the idea coalesced and the more excited I became. When asked to submit a topic description I hit upon a quote by Michael Jordan: "Get the fundamentals down and the level of everything will rise." Mastery always comes back to fundamentals. The founder of Shotokan Karate, Gichin Funakoshi, was asked at the age of eighty to teach at a seminar. He astounded those present by warming up with a basic block taught to first day students, saying "I am finally beginning to understand this technique." If you want to be a top-ranked boxer, practice your jab.

Focusing and refocusing on the fundamentals has a number of benefits: it makes a good appellate practitioner better, and it helps to demystify the criminal appellate practice for the newly initiated. Criminal appellate law can look like a terrifying journey into minutiae, and I've seen newer attorneys frozen to incapacitation at the prospect of appealing an intimidating case with a lengthy record. By backing away from that a bit and refocusing on the fundamentals of the practice, that intimidating record looks manageable and you see that your task is within your capabilities. You can do this.

I also thought about how the criminal appellate board certification exam basically tests the fundamentals, and that when I was studying for the exam there was very little in the way of study guides or materials. I compiled lengthy notes of my own, and much of what I've written here is taken from those notes, cleaned up and made readable. It's not everything one will need for that exam but it's a good chunk of it.

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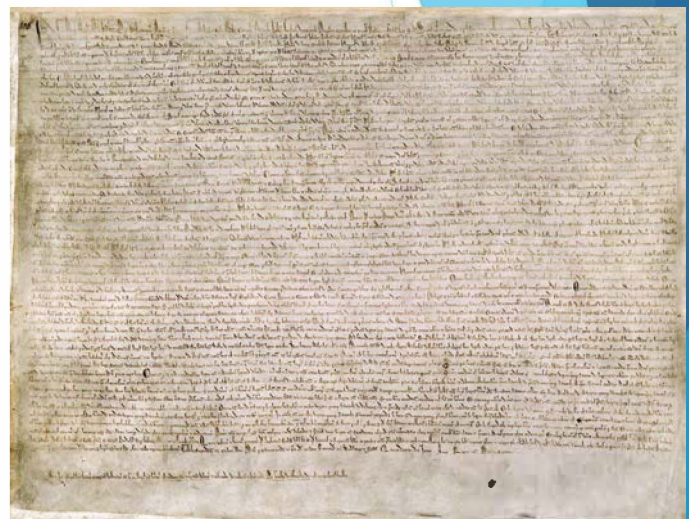


PRETRIAL WRITS OF HABEAS CORPUS

5

Writ of Habeas Corpus

- The Great Writ
- Long History - From the 1100s
- A pretrial writ of habeas corpus is an extraordinary writ in which the restraint of one's liberty is challenged as illegal



Magna Carta

6

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"Appellate Practice 101"