



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1362-18

DEWEY DEWAYNE BARRETT, Appellant

v.

THE STATE OF TEXAS

ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE TWELFTH COURT OF APPEALS
SMITH COUNTY

Per curiam.

ORDER

Appellant has filed a *pro se* petition for discretionary review. He complains about the court of appeals's holding that the trial court was not required to submit a requested lesser-included offense instruction. In light of that petition, the Court grants the following grounds for review on its own motion:

1. Did the court of appeals err in holding that misdemeanor assault by striking in the face was not a lesser-included offense of family violence assault by impeding breath or circulation?
2. Do multiple physical injuries inflicted in a single attack constitute separately

actionable crimes of assault or are they part of a single assault?

3. Should *Irving v. State*, 176 S.W.3d 842 (Tex. Crim. App. 2005), be overruled in light of other developments in our caselaw?

The Clerk of this Court will send copies of this order to the Court of Appeals for the Twelfth District, the State Prosecuting Attorney, the District Attorney for Smith County, and Appellant.

Entered: October 9, 2019
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