

Vosberg v. State

Vosberg was convicted of a DWI and appealed on the ground that the jury charge was erroneous because it included a definition of reasonable doubt. The State countered by noting that at trial, the defense had been asked if it had any objection to the jury charge and offered none. The State maintained that under the holding of *Paulson v. State*, the defense had waived any error. The Court of Criminal Appeals agreed, but determined that if fundamental error had occurred, waiver would be irrelevant. Despite this, the Court went on to conclude that *Paulson* did not mandate that no reasonable doubt definition be included in jury instructions, and that it was therefore not erroneous for the trial court to include one. Since the parties had an opportunity to object to the inclusion of the instruction, yet failed to do so, no issue was present for appeal.