

# Supreme Court of Texas

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No. 24-0834

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Amber Carden and William Duncan McGee,  
*Petitioners,*

v.

Minton, Basset, Flores & Carsey, P.C.; and  
John C. Carsey, Individually,  
*Respondents*

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On Petition for Review from the  
Court of Appeals for the Third District of Texas

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CHIEF JUSTICE BLACKLOCK, joined by Justice Bland, concurring in part and dissenting in part.

I concur in much of the judgment and join the Court's opinion except for part II.B, which concerns the viability of the convicted son's claims under *Peeler v. Hughes & Luce*, 909 S.W.2d 494 (Tex. 1995). In my view, all the son's claims are barred by *Peeler's* prohibition on suits by convicted criminals against their defense counsel. Thus, unlike the Court, I would affirm the judgment of dismissal as to the son's claims.

The plaintiffs are an incarcerated son who was convicted and sentenced for aggravated assault and a mother who paid for her son's

allegedly deficient defense counsel. I agree with the Court that the mother has *standing* to claim she was financially defrauded by the son's lawyer because she paid the allegedly fraudulent bills. As the Court acknowledges, mother was not the lawyer's client, so she will lose on the merits if her fraud claim boils down to a complaint about her son's lawyer's deficient performance. She has, however, alleged a financial injury independent of her son's conviction, and that injury is at least sufficient to establish her standing to sue her son's lawyer for financial fraud.

I also agree with the Court that the son's claims about his lawyer's deficient performance are squarely barred by *Peeler*. Unfortunately, the Court goes on to hold, with respect to the son, that "*Peeler* does not shield criminal defense lawyers from liability for billing and fee disputes that are wholly separate from the exercise of professional skill, diligence, or judgment." *Ante* at 23. Maybe. The distinction between malpractice disputes and fee disputes is very slippery, as this case demonstrates. My concern is that in attempting to leave open the possibility that some of the son's claims survive, the Court provides a roadmap for future criminal defendants to bypass *Peeler* by framing their suits against defense counsel as complaints about the fees charged rather than the performance rendered. How courts are to draw that line consistently and fairly is a mystery to me. The Court leaves it to the court of appeals, which will surely do its best.

The Court need not have left any of the son's claims to the court of appeals, however, because the son has no "billing and fee disputes." His mother paid the bills, as the petition makes abundantly clear. The

son therefore has no financial injury that could even theoretically support the kind of purely fee-based claim the Court hypothesizes would survive *Peeler*. In other words, there is no reason to ask the court of appeals whether any of the son’s claims are “billing and fee disputes that are wholly separate from the exercise of professional skill, diligence, or judgment” because all the “billing and fee disputes” belong to the mother, not the son.

For this reason, I would affirm the dismissal of all the son’s claims. I otherwise concur in the judgment and join the Court’s opinion except for part II.B.

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James D. Blacklock  
Chief Justice

**OPINION FILED:** June 26, 2026