



CASE 9.4

Barton v Whataburger, Inc
276 S.W.3d 456 (Tex. App. 2008)

What a Robbery at Whataburger: A Foreseeable Fatality?

FACTS

On a night in May 2003, Gregory Love was working as a night manager at a Whataburger restaurant in northwest Houston. Love arrived early for his shift that evening, allowing Arthur Murray, another manager, to leave. Murray and Love agreed that Love would count the cash accumulated during Murray's shift and place it in the store safe. Also on duty that night was

Christopher Dean, a mentally impaired employee who had worked for Whataburger for 14 years.

Shortly after Murray left the Whataburger, Love called Murray and told him that he also needed to leave work. Love asked Murray if he could leave Dean in charge of the restaurant. Murray responded that Dean was capable of running the restaurant, but he could not authorize Love to delegate his managerial power to Dean.