

No. 14-24-00313-CR

**In The Court of Appeals
Fourteenth District of Texas
At Houston**

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Clerk of The Court

**JUAN ANGEL PEDRAZA,
Appellant,**

v.

**THE STATE OF TEXAS,
Appellee.**

**On Appeal from Cause No. 100748-CR
In the 149th Judicial District Court of Brazoria County, Texas
The Honorable Jessica Pulcher, Presiding**

APPELLANT'S OPENING BRIEF ON THE MERITS

ORAL ARGUMENT REQUESTED

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IDENTITY OF PARTIES AND COUNSEL

Pursuant to TEX. R. APP. P. 38.1(a), the following is a complete list of the names of the parties and their counsel.

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Prosecution/Appellee

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. **THERE WAS INSUFFICIENT EVIDENCE TO CONVICT AS THE STATE FAILED TO PROVE THAT THE OFFENSES OCCURRED IN BRAZORIA COUNTY, TEXAS.**

STATEMENT OF THE CASE

I. Nature of the Case

This is an appeal from convictions on three counts of aggravated sexual assault of a child and one count of indecency with a child, resulting in a sentence of three life terms plus twenty (20) years of confinement, to be served consecutively in the Texas Department of Criminal Justice – Institutional Division.

II. Trial Court

The Honorable Jessica Pulcher, Presiding Judge of the 149th Judicial District Court of Brazoria County, Texas.

III. Course of the Proceedings and the Trial Court's Disposition of the Case

Appellant was indicted on three counts of aggravated sexual assault of a child under fourteen and one count of indecency with a child, in Cause No. 100748-CR, in the 149th Judicial District Court of Brazoria County, Texas. (CR

6-7)¹; *see* TEX. PENAL CODE ANN. §§ 22.021(A)(2)(B) & 22.11(D). Appellant pleaded not guilty and proceeded to trial. (2 RR 5-7; 3 RR 32). The jury found Appellant guilty and recommended that Appellant be sentenced to three life terms plus twenty (20) years of confinement. (5 RR 64-67, 161-164; CR 110-112). On April 18, 2024, the district court certified the Appellant's right to appeal and sentenced Appellant to serve three life terms plus twenty (20) years of confinement in the Institutional Division of the Texas Department of Criminal Justice. (5 RR 165; CR92; CR 110-112). Appellant's notice of appeal was timely filed the next day. (CR 107); TEX. R. APP. P. 26.2(A)(1).

¹ The record in this case consists of one volume of the Clerk's Record and six (6) volumes of the Reporter's Record. Throughout this brief, the Clerk's Record is referenced as "CR." The Reporter's Record is referenced as "RR," with the volume of the record preceding the "RR" and the page number of the record following "RR." For example, "3 RR 54" refers to page number 54 of the third volume of the Reporter's Record.

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APPELLANT'S OPENING BRIEF ON THE MERITS

TO THE HONORABLE COURT OF APPEALS:

Juan Angel Pedraza, Appellant in docket number 14-24-00313-CR, submits this Brief on the Merits in support of his appeal of the convictions imposed in Cause No. 100748-CR in the 149th Judicial District Court of Brazoria County, Texas.

STATEMENT OF FACTS

Appellant in this case was charged with three counts of aggravated sexual assault of a child under fourteen and one count of indecency with a child, all alleged to have occurred on November 15, 2020, in Brazoria County, Texas. (CR 6-7).

On April 15, 2024, the trial court arraigned Appellant, who entered a plea of not guilty to the offenses. (2 RR 5-7). Voir dire then commenced, and a jury was seated. (2 RR 198).

The next day, April 16, 2024, trial commenced. Outside the presence of the jury, the alleged victim's mother, Angelina Flores, testified at a hearing intended to establish her as an outcry witness. During that hearing, Flores testified that she lived in North Houston, in Harris County. (3 RR 10-11).

The prosecutor read the indictment in the jury's presence and the Appellant entered a plea of not guilty. (3 RR 30-32). The State made an opening statement and the defense reserved their opening. (3 RR 32-40).

The State's first witness was Angelina Flores, the alleged victim's

mother. (3 RR 41). Ms. Flores said that the Appellant would babysit for free because she was a single mother. (3 RR 42-42). She testifies that he would come 5 days a week and that he appeared to especially like her daughter, Aniyah. (3 RR 43, 46-47). She said that the Appellant would often take Aniyah out by herself. (3 RR 47).

Ms. Flores testified that she moved to Pearland, Texas in June of 2020. (3 RR 48). She stated that she and the Appellant became romantically involved in 2021 and traveled to Missouri together. (3 RR 48-49). She testified that in April of 2021 Aniyah told her that the Defendant had been touching her inappropriately. (3 RR 50-55). Flores further testified that she confronted the Appellant about it, and he admitted that he had "full-on penetrated her at least twice." (3 RR 56). She stated that Appellant admitted that these acts occurred in "Pearland." (3 RR 57).

Ms. Flores conceded that she was not truthful with the police and did not tell them that the Appellant had admitted the abuse to her. (3 RR 58-59). She admitted that she maintained a sexual relationship with the Appellant

after learning of the abuse and had a child with him in 2022. (3 RR 61). Ms. Flores stated that she was addicted to methamphetamine at the time. (3 RR 62-63). The State introduced and played a recording made by Ms. Flores of her and the Appellant discussing his abuse of her daughter, which included his admission that the abuse occurred in Pearland. (3 RR 63-68). Ms. Flores testified that the location described by Appellant as the location for abuse was in Brazoria County. (3 RR 70).

On cross-examination, Ms. Flores reiterated that she moved from Pearland to North Houston, in Harris County, by October of 2020. (3 RR 87).

On re-direct, Ms. Flores testified that the Appellant stated that the sexual abuse occurred in Pearland. (3 RR 100-01).

The State next called Deputy Daniel Jaquez of the Harris County Sheriff's Office. (3 RR 103). Deputy Jaquez testified that on April 26, 2021, he responded to a call in Harris County regarding an individual who wanted to turn himself in and confess to a crime. (3 RR 103-04). While he did not recall the exact address, he confirmed that the location was within Harris County.

(3 RR 104).

Deputy Jaquez testified that the Appellant stated that he committed the offenses in Brazoria County. (3 RR 110). Deputy Jaquez further testified that he “believed” that the Appellant told him that the offenses occurred on Hamm Road, in Pearland, Texas. (3 RR 111).

The State’s next witness was Harris County Investigator Mike Tran. (3 RR 134). During Tran’s testimony, recordings were introduced where the Appellant stated on two different occasions that the offenses occurred in Pearland. (3 RR 140, 142, 145). Investigator Tran testified that he understood the Appellant’s references to Pearland to mean within Brazoria County not Harris County. (3 RR 140, 145).

On cross-examination, Investigator Tran testified that the case was transferred to Brazoria County because it was determined that the offenses occurred in Pearland, Texas which is “outside of Harris County.” (3 RR 181-82).

The next witness called by the State was Detective Robert Paquette of

the Pearland Police Department. (3 RR 192). Through Det. Paquette a recording of his phone interview with the Appellant from May of 2023 was introduced into evidence and played for the jury (3 RR 202-06). Det. Paquette testified that he asked the Appellant about the offenses occurring on Hamm Road, in Pearland, Texas, which the witness understood to be in Brazoria County. (3 RR 207).

Trial continued the next day, April 17, 2024, with the State calling its next witness, the alleged victim, Aniyah Mautte. (4 RR 7). The witness confirmed she was ten years old and currently lived in Raytown, Missouri, with her mother, siblings, and grandmother. (4 RR 7). The witness testified that she did not remember where she was living when she first met Appellant. (4 RR 17-18). She stated that she met Appellant when she was five years old. (4 RR 18). At that time, her mother needed a babysitter while working at Little Caesars. (4 RR 16). Appellant began babysitting her and her siblings, and she recalled initially thinking he was "a little sketchy" but later believed he was a good person (4 RR 17).

She acknowledged that her family moved multiple times during her early years but struggled to recall the specific cities or addresses where they lived (4 RR 17-18). When asked if she remembered living in Pearland, she stated she did not, but she acknowledged that they moved frequently (4 RR 18).

As the testimony progressed, the witness described the abuse occurring in multiple locations but had difficulty pinpointing exact addresses. (4 RR 32-33). However, when the prosecutor informed her that Appellant himself had admitted the incidents took place in Pearland, she confirmed that was likely correct (4 RR 33).

When asked if the abuse happened at all the different places she lived, she affirmed that it did. (4 RR 43). When pressed on whether it occurred in Pearland, she specifically stated, "Yeah, I believe so." (4 RR 43). The witness also described how Appellant would take her out alone at night under the guise of treating her to ice cream or meals. (4 RR 40-41). On at least one occasion, she stated that he abused her in the back of his car. (4 RR 41).

After the State rested, the defense moved for a directed verdict on grounds that the State had failed to meet its burden concerning the location where the offenses were alleged to have occurred, necessary to establish Brazoria County as the proper venue for the prosecution. (4 RR 91-92). The court denied the motion based on: i) the Appellant's recorded statement which included admissions that the offenses occurred in Pearland; ii) the court's recollection that the alleged victim's mother testified that they lived on Hamm Road in Pearland; and iii) the testimony of Det. Paquette that Hamm Road was in Brazoria County. (4 RR 92-93).

The defense gave their opening statement suggesting that the Appellant would testify and explain why he gave a false confession. (4 RR 93-95). The defense then presented testimony from the Appellant, Juan Angel Pedraza. (4 RR 96). Appellant identified himself as a 33-year-old man born in Houston, Texas. He confirmed that he grew up in the Houston area, specifically near the Hobby Airport, and attended multiple schools in the city. (4 RR 96-98).

The Appellant denied touching the alleged victim inappropriately. (4 RR 125). He testified that his inculpatory statements to Investigator Tran were false and that he was not in his right mind at the time of the interview. (4 RR 128). Appellant explained that he thought that Det. Paquette was not a legitimate law enforcement official, but rather a friend of the alleged victim's mother, calling him at her request. (4 RR 129-132). He confirmed that his inculpatory statements to Det. Paquette were also false. (4 RR 131).

During cross-examination, Appellant was questioned about his prior statements regarding the offenses. The prosecution presented evidence that he had admitted in recorded statements that the incidents took place in Pearland, Texas. (4 RR 141, 197-98, 243, 280). However, the Appellant testified that his prior statements that the offenses occurred in Pearland, were untrue. (4 RR 141, 280). Both sides rested after Appellant testified. (4 RR 284).

Following the closing arguments of counsel, the jury retired to deliberate, after which it returned a verdict finding Appellant guilty of all offenses, as charged in the indictment. (5 RR 64).

Following the punishment phase, the jury assessed Appellant's punishment at confinement in the penitentiary for three life terms plus twenty (20) years, to be served consecutively. (5 RR 161). The court then imposed the sentence recommended by the jury. (5 RR 165; CR 110-112).

SUMMARY OF THE ARGUMENT

The State failed to establish that Appellant committed the offenses alleged in the indictment to have occurred on November 15, 2020, within the confines of Brazoria County. They offered some evidence indicating that the offenses were alleged to have occurred in Pearland, Texas. However, Pearland is not entirely located in Brazoria County, but encompasses parts of three counties: Brazoria, Fort Bend, and Harris. The only evidence that the offenses were alleged to have occurred in Brazoria County, Texas, was the testimony that a witness thought the victim's home was in Brazoria County. However, the alleged victim's mother also testified that they moved to Harris County in October of 2020. Additionally, the alleged victim's trial testimony was that she was also sexually assaulted in the Appellant's vehicle and she did not offer any location for the vehicle when this sexual abuse occurred. Thus, even were this Court to credit the testimony that law enforcement believes that one of the residences inhabited by the victim was located in Brazoria County, that does not establish that the offenses occurred in that home, as the victim

testified to being sexually assaulted in the Appellant's vehicle and the victim's mother testified to moving out of that residence and to Harris County prior to the date of the alleged offenses.

ARGUMENT

I. THERE WAS INSUFFICIENT EVIDENCE TO CONVICT AS THE STATE FAILED TO PROVE THAT THE OFFENSES OCCURRED IN BRAZORIA COUNTY, TEXAS.

The State failed to prove that the offenses occurred in Brazoria County.

"Although venue must be proven 'at trial to establish a defendant's [legal] status,' that 'does not convert' venue into an 'element of the proscribed offense.'" *State v. Mason*, 980 S.W.2d 635, 641 (Tex.Crim.App.1998) (citing venue and jurisdiction as separate from elements of offense). To sustain an allegation of venue, the State must prove by a preponderance of the evidence that the county of prosecution has venue. *Meraz v. State*, 415 S.W.3d 502, 506 (Tex. App.—San Antonio 2013, pet. ref'd). Venue can be proven by circumstantial or direct evidence. *See Dewalt v. State*, 307 S.W.3d 437, 457 (Tex. App.—Austin 2010, pet. ref'd). Venue will stand if the evidence is sufficient

under any of the venue provisions on which the jury is instructed. *See id.* When reviewing whether the venue evidence is legally sufficient, the court views all evidence in the light most favorable to the verdict to determine whether a rational trier of fact could find that venue was proper by a preponderance of the evidence. *See id. Roush v. State*, 13-18-00350-CR, 2020 WL 1950866, at 2 (Tex. App.—Corpus Christi 2020, no pet.).

Venue is non-constitutional error and is subject to the harm analysis of Texas Rules of Appellate Procedure Rule 44.2(b). *See Tex. R. App. P. 44.2(b); Schmutz v. State*, 440 S.W.3d 29, 35 (Tex. Crim. App. 2014). Non-constitutional error requires reversal only if it affects the accused's substantial rights. *See Tex. R. App. P. 44.2(b); Gonzalez v. State*, 544 S.W.3d 363, 373 (Tex. Crim. App. 2018). "A substantial right is affected when the error had a substantial and injurious effect or influence in determining the jury's verdict." *Thomas v. State*, 505 S.W.3d 916, 926 (Tex. Crim. App. 2016) (quoting *King v. State*, 953 S.W.2d 266, 271 (Tex. Crim. App. 1997)).

A reviewing court will not overturn a conviction for non-constitutional

error if, after examining the entire record, it has fair assurance the error had only slight influence, if any, on the jury. *Gonzalez*, 544 S.W.3d at 373. *Roush v. State*, 13-18-00350-CR, 2020 WL 1950866, at 3 (Tex. App. — Corpus Christi Apr. 23, 2020, no pet.).

Furthermore, unlike elements of an offense that must be proven beyond a reasonable doubt under *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979), the Texas Rules of Appellate Procedure permit appellate courts to presume that venue was proven unless venue is “disputed in the trial court” or “the record affirmatively shows the contrary.” *Compare Tex. R. App. P. 44.2(c)(1)* (permitting appellate presumption on proof of venue), with *Jackson*, 443 U.S. at 316, 99 S.Ct. 2781 (noting Due Process clause requires evidentiary review for sufficiency of proof “of every element of the offense”).

Because venue is not an element of the offense, the court of appeals determined that failure to prove venue does not implicate sufficiency of the evidence, nor does it require acquittal under *Jackson*. *Schmutz v. State*, 440

S.W.3d 29, 35 (Tex. Crim. App. 2014). (*Comparing Jackson*, 443 U.S. at 319, 99 S.Ct. 2781, *supra*, with *Black v. State*, 645 S.W.2d 289, 791 (Tex. Crim. App. 1983) and *Lyles v. State*, 158 Tex. Crim. 509, 257 S.W.2d 310, 311 (Tex.Crim.App.1953)).

Appellant challenged venue in the trial court and the evidence relied on by that court to deny his motion for directed verdict on venue grounds is insufficient to establish venue.

MR. PARKS: Your Honor, at this time, now that the State has rested their case and presented all of their evidence, the Defense would make a motion before the Court to instruct a verdict of "not guilty" based upon the fact that the State has failed to meet their burden in this particular case. In relation to the evidence before the Court, there's been some issues and some testimony put forth regarding exactly the true venue and where this case took place from a jurisdictional standpoint. You heard testimony from various different witnesses that activities may have taken place in different locations, like Galveston County, Harris County, and other locals. It hasn't really been fully substantiated whether or not this act took place here in Brazoria County.

There was some allusions by the defendant himself that this took place in Pearland at some point, but

from the testimony it was determined the kids had been living in the state of Missouri for some time. The defendant's statement himself, without further corroboration, makes the State's evidence insufficient to reach a true and fair verdict in this case. We ask the Court to instruct a verdict of "not guilty" based upon the fact that this case hasn't been proven beyond a reasonable doubt to the jury.

THE COURT: State?

MR. MARTIN: Judge, if you look at, I believe it's 13.15 CCP, in regards to venue -- just a second. I have to find it, but it's with child victims. I believe the standard is preponderance of the evidence standard for the State proving venue. We've had multiple instances where he is on recordings saying that it happened in Pearland. We've had testimony that they lived in Pearland from the mother.

That was on that road, Hamm -- whatever that road was in Pearland. That was in Brazoria County. I want to find that exact statute for you.

THE COURT: I don't need the exact statute.

MR. MARTIN: I'm sorry?

THE COURT: I don't need the exact statute.

MR. MARTIN: Okay. But the standard is preponderance of the evidence, I believe, in proving

venue; but I don't believe it's an issue because even the child said that -- she said that it happened in Pearland.

THE COURT: So it's a lower standard for an instructed verdict.

It's denied. He stated multiple times that it was Pearland. The mother said she lived on Hamm Road in Pearland, and the officer said -- Paquette, I believe, said that the Hamm Road address was Brazoria County.

All right. Thank you.

(4 RR 91-93).

The court cited the Appellant's own statements as part of the proof that venue was proper in Brazoria County. Although Appellant's prior statements mention Pearland as the location of the alleged offenses, this is inadequate to establish venue for two reasons. First, Appellant recanted those statements during his credible trial testimony. (4 RR 141, 280). Second, Pearland is not entirely located in Brazoria County, but encompasses parts of three counties: Brazoria, Fort Bend, and Harris. This is the type of well known information of which the lower court and this august tribunal should take judicial notice

under Rule 201 of the Texas Rules of Evidence.

The trial court also referenced the testimony of the mother of the alleged victim that they had lived on Hamm Road in Pearland and the testimony of Det. Paquette that Hamm Road falls inside Brazoria County as providing proof of proper venue in Brazoria County. However, the victim's mother also testified that they moved to Harris County in October of 2020 before the date of the offenses in the indictment, November 15, 2020. (3 RR 87). Moreover, the evidence at trial did not establish that the offenses alleged in the indictment occurred at the alleged victim's home, as there was testimony from the alleged victim that she was sexually assaulted in the Appellant's vehicle. (4 RR 40-41).

Appellant was convicted after trial in the wrong venue. His substantial rights were violated and he was harmed by facing trial in Brazoria County, rather than Harris County. He faced a much more conservative jury pool and more punitive district attorney's office – something the prosecutor referenced during cross-examination. (4 RR 243).

ADA Golden: You probably would have been better off telling them that it did happen in Harris County because that probation you wanted to get, maybe it would have happened.

(4 RR 243).

PRAYER FOR RELIEF

Appellant prays that the Court of Appeals vacate his convictions.

Respectfully submitted on this 8th day of February, 2025.

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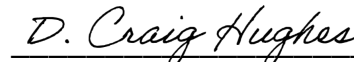
CERTIFICATE OF SERVICE

I certify that on this 8th day of February, 2025, a copy of this brief was served on the Brazoria County District Attorney's Office, via electronic service at the address opposing counsel has listed with the electronic service provider.


D. Craig Hughes

CERTIFICATE OF COMPLIANCE

I certify the foregoing Brief on the Merits complies with Rule 9.4(i)(2)(A) of the Texas Rules of Appellate Procedure. The brief, excluding those portions detailed in Rule 9.4(I) of the Texas Rules of Appellate Procedure, is 4,078 words long. I have relied upon the word count function of Corel WordPerfect, which is the computer program used to prepare this document, in making this representation.


D. Craig Hughes

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