

**NO. 14-24-00539-CR/14-24-00540-CR**

In the  
**Court of Appeals**

For the  
**Fourteenth District of Texas**

At Houston

FILED IN  
14th COURT OF APPEALS  
HOUSTON, TEXAS  
3/27/2025 9:37:34 AM  
DEBORAH M. YOUNG  
Clerk of The Court

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**Trial Court Cause No. 244894/251816**

County Court #3 of  
Brazoria County, Texas

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**CHIP ARDIE,**

*Appellant*

**v.**

**THE STATE OF TEXAS,**

*Appellee*

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**APPELLANT'S BRIEF**

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**Attorney for Appellant**

**ORAL ARGUMENT WAIVED**

**STATEMENT REGARDING ORAL ARGUMENT**

Pursuant to **Tex.R.App.P. 39.1 AND 39.7**, Appellant waives oral argument herein since argument would not significantly aid the court in determining the legal and factual issues presented in appeal.

**NAME OF ALL PARTIES TO TRIAL COURT'S FINAL JUDGMENT**

Pursuant to **Tex.R.App.P. 38.1(a)** a complete list of the names of all interested parties is provided below.

Appellant:

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Trial and Appellate Counsel for the State of Texas, Brazoria, County, Appellee:

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Appellate Counsel for the State of Texas, Brazoria County, Appellee:

**Thomas J. Selleck**

Brazoria County District Attorney

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Angleton, Texas 77515

Trial Judge:

**JEREMY WARREN, PRESIDING JUDGE OF COUNTY  
COURT #3 OF BRAZORIA COUNTY, TEXAS**

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**TO THE HONORABLE COURT OF APPEALS:**

**STATEMENT OF THE CASE**

Appellant was charged with CRIMINAL TRESPASS a class B misdemeanor. On April 7, 2020, Appellant entered a plea of not guilty in the following Cause Nos. 244893, 244894, 251816 (2 RR 12, 13, 14). The Jury Disagreed (6 RR 58-59). Mr. Ardie was sentenced to a term of 90 days on Cause No. 244894 and 251816, being not less than 30 days, and not more than 180 days jail with a fine of zero, being not more than \$2,000. (6 RR 32-33). Appellant timely filed a written notice of appeal on July 23, 2024. (CR 102)

## **ISSUES PRESENTED**

### **I. THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT CONVICTION FOR CRIMINAL TRESPASS.**

## **STATEMENT OF FACTS**

On or about February 21, 2020, Mr. Chip Ardie allegedly crossed an unmarked boundary on to the property of T.W. where he was allegedly clearing land and burning property (4 RR 22).

On or about November 18, 2021, Mr. Chip Ardie allegedly crossed an unmarked boundary on to the property of T.W. where he was allegedly building and encroaching on the property of T.W. (4 RR 23). A fence was erected prior to that date about a half-acre from the official property line (4 RR 18) and no fence had been erected on the boundary line at the time of this incident on February 21, 2021 (4 RR 22). A default Judgment was signed on July 27, 2015, entitled Final Default Judgment Establishing the Property Line as it was staked (4 RR 16-18). If properly reviewed, a lay person would not be able to indicate the boundaries marked in States Exhibit 3 (7 RR 20) without proper ground markers.

### **SUMMARY OF ARGUMENT**

The evidence is insufficient to support Appellant's conviction for Criminal Trespass. A review of the record reveals no rational fact finder could have found that the State established, beyond a reasonable doubt, that appellant's intent was to enter or remain on someone else's property without the owner's consent (Texas Penal Code Sec. 30.05).



## **ARGUMENT AND AUTHORTIES**

### **ISSUE 1: THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT A CONVICTION FOR CRIMINAL TRESPASS.**

#### ***Standard of Review and Applicable Law***

The standard of review to evaluate sufficiency of the evidence in a criminal case is the well-established legal sufficiency standard as set forth in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Brooks v. State*, 323 S.W.3d. 893 (Tex. Crim. App 2010). Thus, in assessing the sufficiency of the evidence, this Court must review all evidence in the light most favorable to the verdict to determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Id.*

The ultimate question for this Court is whether the jury's finding of guilt was a rational finding based upon the evidence presented. *Id.* Under the current standard, “only that evidence which is sufficient in character, weight, and amount to justify a fact finder in concluding that every element of the offense has been proven beyond a reasonable doubt is adequate to support a conviction.” *Id.* Finally, as the Court of Criminal Appeals has recognized, “it bears emphasizing that a rigorous and proper application of the *Jackson v. Virginia* legal sufficiency standard is as exacting a standard as any factual-sufficiency standard (especially

one that is ‘barely distinguishable’ or indistinguishable from a *Jackson v. Virginia* legal-sufficiency standard).” *Id.* at 907.

**The criminal trespass charge by complaint and information as follows:**

Allegation 1: **Cause No: 244894** – On or about the 21<sup>st</sup> day of February, 2020, “Chip Ardie, did then and there intentionally or knowingly enter a building or property of another, namely, Tom Willadson, **without the effective consent of the said Tom Willadson, and the said defendant had notice that the entry was forbidden...**” (1 CR 4);

Allegation 2: **Cause No: 251816** – On or about the 18<sup>th</sup> day of November, 2021, Chip Ardie, did then and there intentionally or knowingly enter a building or property of another, namely, Tom Willadson, **without the effective consent of the said Tom Willadson, and the said defendant had notice that the entry was forbidden...**” (1 CR 3).

The complaint does not charge the second way in which a criminal trespass may occur, to-wit: that Appellant received **notice that the entry was forbidden** and/or **notice to depart but failed to do so.**

The criminal-trespass statute, in relevant part, provides: "(a) A person commits an offense if he enters or remains on property or in a building of another

without effective consent and he: (1) had notice that the entry was forbidden; or (2) received notice to depart but failed to do so." Tex. Penal Code Ann. § 30.05(a).

The Texas Penal Code provides that a person commits criminal trespass if the person enters or remains on or in property of another without effective consent, and the person had notice that the entry was forbidden. Tex. Penal Code Ann. 30.05 (a)(1) (West Supp. 2016). The evidence was insufficient to establish that Appellant entered the property with notice that the entry was forbidden. First, fencing around the property was not on the legal boundary line of the property. A fence was erected prior to that date about a half-acre from the official property line (4 RR 18) and no fence had been erected on the boundary line at the time of the incident on February 21, 2021 (4 RR 22). The following cases rest upon the use of complete fencing and locked gates. Under the criminal trespass statute, either would be sufficient to demonstrate that entry was forbidden. See *Jackson v. State*, 3 S.W.3d 58, 62 (Tex.App.–Dallas 1999, no pet.) (fencing around house was sufficient to provide notice that entry was forbidden); *Matter of D.L.K.*, 690 S.W.2d 654, 655 (Tex.App.–Eastland 1985, no pet.) (fencing and locked gates were sufficient to provide notice that entry was forbidden); *Leal v. State*, 736 S.W.2d 907, 913 (Tex.App.–Corpus Christi 1987), pet. dismiss'd, 773 S.W.2d 296 (Tex.Crim.App. 1989) (per curiam) (entry on ranch through locked gate bearing a “No Trespassing”

sign, by cutting chain securing the gate, “was a clear violation of Texas' criminal trespass statute”).

However, in contrast to the instant case, there was no cutting of locks, or a fence in place. T.W. testified that “I raised and built a cross fence about a half an acre from that line to stay away from it since it was disputed. I built a cross fence so I could move cattle in (4 RR 18).” Showing the area was not clearly fenced. T.W. also states “I think the rule is you paint the corner post, and that's what I did (4 RR 20)” (7 RR 44-46, 48, 50, 61-62). A lay person would not be able to determine the boundaries of the survey listed as States Exhibit 3 without proper markings (7 RR 20).

**DIRECT EXAMINATION OF MR. WILLADSON BY MR.  
TOMPKIN:**

Q. What is that document?

A. This is the final default judgment establishing the property line as it was staked.

Q. And is this a true and accurate copy of the final judgment?

A. Yes, sir.

MR. TOMPKINS: I offer State's Exhibit 3. (4 RR 16)

A. Not on that property line. I had cleared and planted grass so I could use that as an additional pasture for my cattle that **I raised and built a cross fence about a half an acre from that line to stay away from it since it was disputed.** I built a cross fence so I could move cattle in.

Q. So you waited until you had that judgment before building a fence on that line?

A. That's correct.

Q. Do you recall?

A. No. I'm sorry. The cross fence was built before the judgment so they could run cattle there.

Q. What you're calling a cross fence, was that on the property line?

A. **No. It was about one acre back.**

Q. Okay. And why did you build that fence rather than a fence on the property line?

A. So I could start running cattle. (4 RR 18)

Did you mark the property in any way to warn trespassers?

A. Yeah. I painted the corner post purple, which are a sign of -- to stay away, and that was at the recommendation of the sheriff's department.

**Q. Did you paint all the posts purple?**

**A. I think the rule is you paint the corner post, and that's what I did.**

Q. Did Mr. Ardie take any action to assert legal rights in the declaratory judgment lawsuit?

A. No, sir. Say that again.

Q. Did he show up to court and present evidence?

A. No, sir. No, sir.

Q. And did he make any attempt to do that?

A. No, sir. To my knowledge, no. (4 RR 20)

The testimony from the record presented in this case shows that there was not legally sufficient evidence to support a conviction of Appellant for Criminal Trespass.

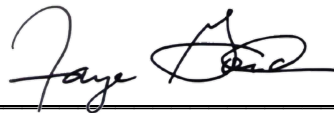
In order for the jury to have found Appellant guilty all elements of the Criminal Trespass would have to be proven beyond a reasonable doubt. Because the evidence presented in this case is not legally sufficient to prove beyond a reasonable doubt that all the elements were met in this case, the jury was not rationally justified in finding the Appellant guilty of Criminal Trespass.

Accordingly, this conviction of Criminal Trespass should be reversed, and the Defendant should be acquitted.

**PRAYER FOR RELIEF**

FOR THESE MANY REASONS, the Appellant respectfully prays that this Honorable Court reverse the Trial Court's ruling that there was sufficient evidence to convict Isaiah Longoria aka Isiah Longoria.

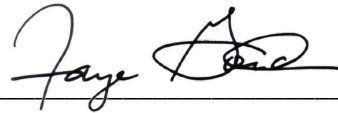
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Faye Gordon", is written over a horizontal line.

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### **CERTIFICATE OF COMPLIANCE**

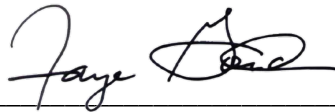
I, Faye Gordon, attorney for Appellant, Chip Ardie, certify that this document was generated by a computer using Microsoft Word which indicates that the word count of this document for both the cover **pages (2156) and the body text is in 14 point font**, per Tex. R. App. P. 9.4(e), 9.4 (i)(3).

A handwritten signature in black ink, appearing to read "Faye Gordon", written over a horizontal line.

Faye Gordon, attorney for Appellant

### **CERTIFICATE OF SERVICE**

Pursuant to TEX.R.APP.PRO. R. 9.5(a) & (e), I certify that on March 27, 2025 I e-filed of the foregoing Appellant's Brief to the Clerk of the Fourteenth Court of Appeals and the District Attorney for Brazoria County, and mailed a copy to Appellant, Chip Ardie at his last known address.

A handwritten signature in black ink, appearing to read "Faye Gordon", written over a horizontal line.

Faye Gordon, attorney for Appellant



### Automated Certificate of eService

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Status as of 3/27/2025 10:36 AM CST

Associated Case Party: Chip Ardie

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