NO. 01-24-00237-CR

IN THE FIRST COURT OF APPEALS

FOR THE STATE OF TEXAS

CAUSE NO. 95350-CR

IN THE 412TH JUDICIAL DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

ISAIAH CHAVEZ, APPELLANT

v.

THE STATE OF TEXAS, APPELLEE

BRIEF FOR APPELLANT

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ORAL ARGUMENT NOT REQUESTED.

IDENTITY OF PARTIES AND COUNSEL

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The State of Texas	Appellee
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Hon. Justin R. Gilbert Brazoria County Courthouse 237 E. Locust St., Angleton, Texas 77515	Judge of the 412th Judicial District Court, and Referring Court of this Case
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ABBREVIATIONS AND RECORD REFERENCES

Clerk's Record

The (original) Clerk's Record is cited as "1 C.R. [page number]."

Reporter's Record

The (original) Reporter's Record is cited as "[volume number] R.R. [page number]:[line-numbers]."

Parties

When necessary, parties will be referred to as Appellant and Appellee; or with their individual names (Isaiah Chavez, The State of Texas, Mr. Chavez, The State, Defendant, and Texas).

Appendices

If applicable, the citation "App. [Tab No.]" Refers to the appendix to the brief of the Appellant.

Exhibits

If applicable, the citation "7 R.R. Ex. [Exhibit Number]" Refers to the exhibits in volume 7 of the Reporter's Record.

STATEMENT OF THE CASE

Nature of the case: This case is a criminal suit involving the criminal prosecution of Appellant, in which The State of Texas indicted Appellant on March 5th, 2022, for the felony offense of Escape (1 C.R. at 6).

Course of proceedings: A pre-trial hearing was initially held on March 7th, 2024. (2 R.R. 1:12). A jury trial commenced thereafter on March 18th, 2024. (3 R.R. 1:9-12). On March 20th, 2024, the jury found the Appellant guilty of the offense of escape as charged in the indictment. (5 R.R. 46:22-25). On March 21st, 2024, the Jury assessed punishment as confinement in the penitentiary for a term of four years, and also assessed a fine of one-thousand ($1,000.00) dollars. (6 R.R. 6:4-10). The Jury further recommended that Appellant's penitentiary time and fine both be community supervised. (6 R.R. 6:10-15).

Trial court disposition: The Trial Court formally sentenced Appellant on March 21st, 2024, probating Appellant's sentence for a period of ten years along with an enumerated list of conditions to abide by while on probation. (6 R.R. 8:24-9:4). An Order appointing an Attorney on Appeal was signed (1 C.R. 99), with a notice of appeal subsequently filed on March 22nd, 2024. (1 C.R. 100).

STATEMENT REGARDING ORAL ARGUMENT

Appellant respectfully submits that the appellate record and legal arguments presented herein are sufficient for the Court to render a decision without the need for oral argument.

ISSUES PRESENTED FOR REVIEW

This appeal presents two main points of error:

ISSUE NO. 1 PRESENTED FOR REVIEW

Whether the trial court erred by admitting the arrest warrant into evidence over defense counsel's hearsay objection, where the warrant was not properly authenticated nor met any exception to the hearsay rule, in violation of the Texas Rules of Evidence.

ISSUE NO. 2 PRESENTED FOR REVIEW

Whether the trial court erred by allowing the State to mention and admit evidence of an extraneous offense of murder contained in the arrest warrant, which was irrelevant to the charged offense of escape, thereby prejudicing Appellant and denying him a fair trial under the Texas Rules of Evidence and due process.

STATEMENT OF FACTS

Appellant Isaiah Chavez was indicted on May 5, 2022, for the felony offense of Escape. (1 C.R. 6). The trial commenced with voir dire on March 18, 2024. (3 R.R. 1). Prior to opening statements on March 19, 2024, the defense filed a Motion in Limine seeking to prevent any mention of extraneous offenses without first approaching the bench. (4 R.R. 5:7-21). After considering the State's response, the trial court ruled that the State would be permitted to mention the charge of murder, but none of the details of the alleged act. (4 R.R. 20:9-11).

During its opening statement, the State informed the jury: "Isaiah Chavez had a warrant for his arrest. And you're going to hear exactly what that was for. And that arrest warrant was for the offense of murder." (4 R.R. 62:13-16).

The trial proceeded with the presentation of evidence from both the State and the defense. (4 R.R. 3). The State called Deputy T.C. Grupe, a warrant deputy responsible for executing high-risk warrants, who attempted to arrest Appellant. (4 R.R. 74:11-20). During direct examination, the State offered into evidence State's Exhibit No. 2—the arrest warrant. (4 R.R. 79:22-24; 7 R.R. Ex. 2). Defense counsel objected on grounds of hearsay and under Texas Rules

of Evidence 403 and 404, but the trial court overruled the objections and admitted the exhibit. (4 R.R. 80:1-4).

State's Exhibit No. 2 specifically commanded any peace officer of Harris County, Texas, to arrest Isaiah Chavez, stating that he "committed the felony offense of Murder." (7 R.R. Ex. 2). Deputy Grupe testified about the events leading up to Appellant's escape, including Appellant being in his truck, opening the deputy's vehicle door, and fleeing on foot. (4 R.R. 91:8-17).

Closing arguments were presented on March 20, 2024. (5 R.R. 3). The jury found Appellant guilty of Escape as charged. (5 R.R. 46:22-25). During the punishment phase, the jury assessed Appellant's punishment at four years' confinement and a $1,000 fine, recommending community supervision for both, noting that Appellant had no prior felony convictions. (6 R.R. 6:4-15).

SUMMARY OF THE ARGUMENT

The trial court abused its discretion by admitting the arrest warrant into evidence without proper authentication, violating the Texas Rules of Evidence. Despite defense counsel's objections on grounds of hearsay and under Rules 403 and 404, the trial court allowed the State to introduce the arrest warrant, which was neither accompanied by a business records affidavit nor authenticated by any competent witness. The State failed to establish any exception to the hearsay rule that would permit its admission. The admission of this inadmissible evidence prejudiced Appellant's right to a fair trial.

Furthermore, the trial court erred by allowing the State to introduce and emphasize the extraneous offense of murder contained in the arrest warrant. The specific mention of the murder charge was irrelevant to the offense of escape and was highly prejudicial. The prosecutor's multiple references served no legitimate purpose under Texas Rule of Evidence 404(b) and only served to inflame the jury, potentially leading them to convict Appellant on improper grounds. The balancing test in allowing the mention of the extraneous offense of murder provided very little probative value to what was already being offered, and only had an overwhelming prejudicial effect increasing the likelihood of the danger of unfair prejudice.

These evidentiary errors, individually and cumulatively, affected the outcome of the trial and deprived Appellant of his right to a fair trial. Accordingly, the conviction should be reversed, and the case remanded for a new trial.

ARGUMENT

I. The Trial Court Abused Its Discretion by Admitting the Arrest Warrant, in Violation of the Texas Rules of Evidence

A. Standard of Review – Abuse of Discretion

An appellate court reviews the trial court's decision to admit or exclude evidence under an abuse of discretion standard. Gonzalez v. State, 544 S.W.3d 363, 370 (Tex. Crim. App. 2018). A trial court abuses its discretion when its decision lies outside the zone of reasonable disagreement. *Id.*

B. The Arrest Warrant Was Improperly Admitted Without Authentication or an Exception to the Hearsay Rule

During the trial, the State introduced the arrest warrant as State's Exhibit No. 2. (7 R.R. Ex. 2). Defense counsel timely objected on the grounds of hearsay and under Rules 403 and 404. (4 R.R. 80:1-2). The trial court overruled the objections and admitted the exhibit, which was then published to the jury. (4 R.R. 80:3-7).

The arrest warrant constituted hearsay under Texas Rule of Evidence 801(d), as it was an out-of-court statement offered to prove the truth of the

matter asserted. Hearsay is inadmissible unless an exception applies. Tex. R. Evid. 802.

The State failed to authenticate the arrest warrant as required under Texas Rule of Evidence 901(a), which mandates that evidence must be authenticated as a condition precedent to admissibility. Tex. R. Evid. 901. The arrest warrant was not accompanied by a business records affidavit, nor was it authenticated by a custodian of records or other qualified witness. The State did not establish any exception to the hearsay rule that would allow the admission of the arrest warrant.

C. The Arrest Warrant Did Not Satisfy the Requirements of Texas Rule of Evidence 902.

Under Texas Rule of Evidence 902, certain documents are self-authenticating and require no extrinsic evidence of authenticity. However, for a domestic public document to be self-authenticating under Rule 902(1), it must bear a seal and signature. Alternatively, under Rule 902(2), if the document does not bear a seal, it must be signed and certified by a public officer with a seal and official duties in the same entity. Tex. R. Evid. 902(1) and 902(2).

State’s Exhibit 2 did not meet these requirements. The arrest warrant did not bear a seal, nor was it certified in accordance with Rule 902(2). It only bore

the signature of Judge Brock Thomas, without any seal or accompanying certification. (7 R.R. Ex. 2). Therefore, it was not self-authenticating and required proper authentication before admission, which the State failed to provide.

D. The Arrest Warrant Was Hearsay, and Its Contents Should Not Have Been Published to the Jury.

In addition, State's Exhibit #2 is hearsay. Hearsay is a statement, other than one made by the declarant while testifying at trial, that is offered to prove the truth of the matter asserted. Tex. R. Evid. 801(d). Hearsay is inadmissible unless an exception created by statute or the Texas Rules of Evidence applies. Tex. R. Evid. 802. Appellant objected to the contents of the warrant as hearsay (4 R.R. 80:1-2).

Although cases have allowed testimony by a witness to the existence of a warrant when establishing the justification of their arrest on their good-faith belief of the existence of a warrant, those cases also contain similar fact patterns where the witness did not testify to the contents of the warrant, but only to the information that was conveyed to them. Swartz v. State, 691 S.W.3d 757, 766 (Tex. App.—Houston [14th Dist.] 2024, no pet.), reh'g denied (July 9, 2024).

However, in the instant case, the Deputy went beyond offering testimony to explain the justification for appellant's arrest when he testified to the contents of the Arrest Warrant. (4 R.R. 80:24 – 81:14). The testimony proceeded as:

Q. And so let me go ahead. The second paragraph here, what does that tell us? What kind of information does that give us?

A. You talking about the second paragraph?

Q. Yes.

A. This one right here?

Q. Correct.

A. It says, you know, who it is, described on his birthday, and the offense of murder.

Q. Okay. And so that tells you exactly who you're looking for, right?

A. Correct.

(4 R.R. 81:4-15).

Additionally, the State's Exhibit #2, the second paragraph states, "YOU ARE THEREFORE COMMANDED to forthwith arrest Isaiah Chavez, a

Hispanic male with the date of birth January 28, 2005, who is pictured below and who committed the felony offense of Murder." (7 R.R. Ex. 2). The questions and answers by the State and its witness call forth and give information that is hearsay. In addition, the Exhibit admitted into evidence does not constrain its language to say that the Defendant is to be arrested because he is charged or alleged to have committed the crime of Murder, but goes beyond an alleged offense to specifically state that, "Isaiah Chavez … who is pictured below and **who committed the felony offense of Murder**." (7 R.R. Ex. 2).

II. The Trial Court Erred in Allowing the Introduction of the Extraneous Offense of Murder, Which Was Irrelevant and Prejudicial.

A. Standard of Review – Abuse of Discretion

"The admissibility of evidence is within the discretion of the trial court and will not be overturned absent an abuse of discretion. That is to say, as long as the trial court's ruling was within the zone of reasonable disagreement, the appellate court should affirm." Moses v. State, 105 S.W.3d 622, 627 (Tex. Crim. App. 2003).

B. The Extraneous Offense of Murder Was Irrelevant to the Offense of Escape

The indictment alleged the elements of Escape that the State had elected to prove, in that "Isaiah Chavez … on or about the 14th day of April, 2022, and before the presentment of this indictment, in the County and State aforesaid, did then and there intentionally or knowingly escape from the custody of T. C. Grupe, a peace officer, when the defendant was under arrest for or charged with or convicted of a felony offense. (1 C.R. 6).

In proving the offense of escape, the State merely had to prove as part of the indictment that the offense that he was under arrest for or charged with or convicted of was a felony offense, and did not have to call for specifically stating the exact extraneous felony offense.

By allowing the State to introduce the extraneous offense of murder, the trial court admitted prejudicial information, creating a significant risk that the jury would convict the defendant based on his alleged involvement in an unrelated and highly inflammatory crime, rather than solely on the facts related to the charged offense of escape.

C. The Admission of the Extraneous Offense Was Substantially More Prejudicial Than Probative

Even if the extraneous offense of murder were somehow marginally relevant to the escape charge beyond testimony that Officer Grupe could have provided

related to him carrying out high-risk warrants that called for the arrest of the Defendant, it should have been excluded under Texas Rule of Evidence 403, which allows the court to exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice. Tex. R. Evid. 403.

Texas Rule of Evidence 403 states:

The Court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence. Id.

The mention of a murder in an arrest warrant—unrelated to the charged offense of escape—had an overwhelming potential to prejudice the jury. The nature of the offense of murder, a violent and serious crime, would almost certainly invoke strong emotions in the jury, leading them to view the defendant as a dangerous person, even though the alleged murder had no connection to the escape charge.

It is reasonable to believe that the range of crimes that exist in the Texas Penal Code exist on a spectrum of those that have a low-probability to inflame the jury to those which have a high-probability to inflame the jury. There are very few other crimes which could be seen to exceed the inflammability of

Murder, or causing the death of another individual. It would make the most sense that the greater the risk or the greater the potential that an extraneous offense has to inflame the jury, the more precautions and more likely a limiting instruction should be given.

"Limitations on the admissibility of evidence of an accused's prior criminal conduct are imposed, not because such evidence is without legal relevance to the general issue of whether the accused committed the act charged, but because such evidence is inherently prejudicial, tends to confuse the issues in the case, and forces the accused to defend himself against charges which he had not been notified would be brought against him." Albrecht v. State, 486 S.W.2d 97, 100 (Tex. Crim. App. 1972).

D. The Prosecutor's Reference to the Murder Offense Amplified the Prejudice

The prosecutor's direct reference to the murder offense, contained within the arrest warrant, further magnified the prejudicial effect. During the trial, the prosecutor unnecessarily highlighted the extraneous offense in front of the jury multiple times, giving the impression that the defendant's involvement in the murder was relevant to the crime at hand (4 R.R. 62:11-16, 66:4-11, 81:11-12).

This reference not only drew the jury's attention to the murder offense but also implicitly invited the jury to convict the defendant based on this extraneous and inflammatory information, violating the principle that a defendant should only be judged based on the facts related to the crime for which they are on trial.

E. Admission of the Extraneous Offense Was Not Harmless

The error in admitting the extraneous offense of murder was not harmless under Texas Rule of Appellate Procedure 44.2(b). To reverse for non-constitutional error, the appellate court must determine whether the error had a substantial and injurious effect on the jury's verdict (Rich v. State, 160 S.W.3d 575, 577 (Tex. Crim. App. 2005)).

Given the serious nature of the murder offense and the State's emphasis on it during the trial, it would be likely that the jury's perception of the defendant was unfairly influenced. The improper introduction of the murder offense would have affected the jury's ability to impartially assess the defendant's guilt regarding the escape charge, rendering the error harmful.

In reviewing the record, the trial court abused its discretion in admitting the extraneous offense of murder, which was irrelevant to the charged offense of escape and served only to prejudice the jury. The prosecutor's emphasis on

this extraneous offense further compounded the harm, leading to an unfair trial. Because the admission of this prejudicial evidence likely influenced the jury's verdict, the judgment should be reversed.

CONCLUSION AND PRAYER

Based on the foregoing, Appellant would show that the Trial Court abused its discretion in (1) admitting the arrest warrant into evidence without proper authentication or an applicable exception to the hearsay rule, and (2) allowing the extraneous offense of murder, contained in the arrest warrant, to be mentioned by the prosecutor and witness, which was irrelevant and prejudicial to the charge of escape. Both errors resulted in the improper admission of evidence that had a substantial and injurious effect on the jury's verdict.

WHEREFORE, PREMISES CONSIDERED, Appellant prays that this Honorable Court reverse the judgment of conviction, and remand this cause for a new trial consistent with the errors complained of herein. Appellant further prays for such other and further relief, both at law and in equity, to which he may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief was prepared using the latest Microsoft Word for Office 365, with a fourteen-point font, and twelve-point font for footnotes, in Times New Roman typeface. Omitting the portions not included for the word limit, this brief petition contains 2543 words.

CERTIFICATE OF SERVICE

I, Tyson R. Phillips, do hereby certify that I have served a copy of the foregoing Appellant's Brief to Appellee's attorney, Trey Picard, via electronic service to his e-mail address: bcdaeservice@brazoriacounty.gov.

Dated this Monday, September 30, 2024.

/s/ Tyson R. Phillips
Tyson Phillips

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