

FOURTH COURT OF APPEALS OF TEXAS AT SAN ANTONIO

Dawud Abdullah v. The State of Texas

No. 04-24-00460-CR · No. 04-24-00460-CR · Decided May 27, 2026

SUMMARY

The Fourth Court of Appeals of Texas affirmed, with modification, Dawud Abdullah’s convictions for thirty-one counts of smuggling of persons. The court rejected his double-jeopardy, statutory-constitutionality, suppression, and sufficiency-related challenges, and held that certain statements concerning passengers’ national origins did not violate the Confrontation Clause, although their admission was hearsay error. The court concluded that the hearsay error was harmless and reformed the judgment to accurately reflect Abdullah’s not-guilty pleas.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas at San Antonio
WRITING FOR THE COURT	Rebeca C. Martinez, Chief Justice; Irene Rios, Justice; Adrian A. Spears II, Justice
JURISDICTION	Fourth Court of Appeals of Texas
DECIDED	May 27, 2026
DOCKET	04-24-00460-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from convictions on thirty-one counts of third-degree smuggling of persons following a jury trial; the court affirmed the convictions while reforming the judgment sua sponte to reflect that Abdullah pleaded not guilty.
STANDARD OF REVIEW	The court afforded almost total deference to the trial court's historical-fact determinations and reviewed de novo the application of search-and-seizure law. Hearsay rulings were reviewed for abuse of discretion. Sufficiency of the evidence was reviewed under Jackson v. Virginia, viewing all evidence in the light most favorable to the verdict. Jury-charge error was reviewed first for error and then for sufficient harm. Preservation issues were reviewed under Texas Rule of Appellate Procedure 33.1.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; not designated for publication.
PARTIES	Dawud Abdullah v. The State of Texas

TOPICS

criminal procedure

double jeopardy

suppression of evidence

fourth amendment

hearsay

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether severing and trying the thirty-four smuggling counts in two proceedings violated the Double Jeopardy Clause.
2. Whether Texas Penal Code section 20.05(a)(1)(A) was facially unconstitutional or unconstitutionally vague, and whether Abdullah preserved an as-applied preemption challenge.
3. Whether the traffic stop was illegal, unreasonably prolonged, or followed by an unlawful warrantless search of the U-Haul.
4. Whether testimony concerning the passengers' national origins and places of birth violated the Confrontation Clause or constituted inadmissible hearsay.
5. Whether the trial court erred by refusing requested jury instructions.
6. Whether the evidence was sufficient to prove Abdullah's intent to conceal the transported individuals.
7. Whether the habitual-offender enhancements were improper.
8. Whether Abdullah's fifty-year sentence was grossly disproportionate under the Eighth Amendment.
9. Whether the judgment should be reformed to reflect Abdullah's not-guilty plea.

HOLDINGS

1. Trying the thirty-one adult smuggling counts after the earlier trial on three juvenile smuggling counts did not violate double jeopardy because each individual transported constituted a separate unit of prosecution, and the two proceedings involved different transported individuals.
2. The facial preemption and vagueness challenges to section 20.05(a)(1)(A) failed because the court had previously rejected identical challenges in *State v. Flores*, and the court adopted the reasoning of that decision and *Abdullah I*.
3. Abdullah failed to preserve his as-applied preemption challenge because he did not raise it during trial or in his motion for new trial, and his pretrial motion addressed different counts.
4. The trial court did not abuse its discretion in denying the motion to suppress the search of the U-Haul because, under the totality of the circumstances, officers had probable cause to believe the vehicle contained contraband or evidence.
5. Admission of the passengers' names, places of birth, and national-origin information did not violate the Confrontation Clause because the statements were nontestimonial.
6. The passengers' statements concerning their personal history, including places of birth, were improperly admitted under Texas Rule of Evidence 804, but the error was harmless and did not affect Abdullah's

substantial rights.

7. The trial court did not err by refusing the requested hearsay limiting instruction or the requested definition of 'conceal'; the remaining challenges to a fairness instruction and definition of 'complainant' were inadequately briefed.
8. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Abdullah knowingly transported all thirty-one individuals with intent to conceal them from law enforcement.
9. Abdullah's fifty-year sentence and \$10,000 fine were not grossly disproportionate under the Eighth Amendment because they fell within the statutory punishment range and were proportionate to the offense and Abdullah's habitual-offender status.
10. The judgment was properly reformed sua sponte to state that Abdullah pleaded not guilty rather than guilty.

KEY QUOTATIONS

“Neither the name nor the nationality of the transported individual is an element of the offense of smuggling.” (at 14)

“Our authority to reform incorrect judgments is not dependent on the request of any party, nor does it turn on a question of whether a party has or has not objected in trial court; we may act sua sponte and may have a duty to do so.” (at 24)

FACTUAL BACKGROUND

A deputy stopped Abdullah's U-Haul truck at night because its license plate was not clearly legible and then smelled what he believed was marijuana. Abdullah and two front-seat passengers lacked valid driver's licenses, and a trained canine showed interest and a change in behavior near the rear of the truck. At a secured weigh station, authorities discovered thirty-two additional individuals in the cargo area, and ultimately identified thirty-four transported individuals. Abdullah was convicted of thirty-one counts involving the adults transported in the truck.

PROCEDURAL HISTORY

Abdullah was indicted on thirty-one third-degree smuggling counts and three second-degree smuggling counts. The trial court granted his motion to sever the second-degree counts, and he was convicted on those counts in an earlier trial; the thirty-one third-degree counts proceeded to a second trial, where a jury found him guilty on all counts. The trial court imposed concurrent fifty-year sentences and a \$10,000 fine, denied Abdullah's motion for new trial, and Abdullah appealed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment is modified to correctly reflect Abdullah's plea of not guilty; as modified, the judgment is affirmed.

CASES CITED

- Kuykendall v. State, 611 S.W.3d 625, 627-28 (Tex. Crim. App. 2020)
- Speights v. State, 464 S.W.3d 719, 722, 724 (Tex. Crim. App. 2015)
- Ex parte Castillo, 469 S.W.3d 165, 169 (Tex. Crim. App. 2016)
- Ex parte Benson, 459 S.W.3d 67, 72 (Tex. Crim. App. 2015)
- Ex parte Hawkins, 6 S.W.3d 554, 559-60 (Tex. Crim. App. 1999) (en banc)
- Jones v. State, 323 S.W.3d 885, 891 (Tex. Crim. App. 2010)
- Ex parte Carner, 364 S.W.3d 896, 898 (Tex. Crim. App. 2012)
- State v. Flores, 679 S.W.3d 232 (Tex. App.—San Antonio 2023, pet. ref'd)
- Abdullah v. State, No. 04-23-00773-CR, 2024 WL 3800661 (Tex. App.—San Antonio Aug. 14, 2024, pet. ref'd) (mem. op., not designated for publication)
- Reynolds v. State, 423 S.W.3d 377, 383 (Tex. Crim. App. 2014)
- Barker v. State, 335 S.W.3d 731, 734 (Tex. App.—Houston [14th Dist.] 2011, pet. ref'd)
- State ex rel. Lykos v. Fine, 330 S.W.3d 904, 919 (Tex. Crim. App. 2011)
- Gillenwaters v. State, 205 S.W.3d 534, 537-38 & n.4 (Tex. Crim. App. 2006)
- United States v. Banuelos-Romero, 597 F.3d 763, 766 (5th Cir. 2010)
- United States v. Kelly, 302 F.3d 291, 293 (5th Cir. 2002)
- Wiede v. State, 214 S.W.3d 17, 24-25 (Tex. Crim. App. 2007)
- Dixon v. State, 206 S.W.3d 613, 616 (Tex. Crim. App. 2006)
- Illinois v. Gates, 462 U.S. 213, 238 (1983)
- State v. Ross, 32 S.W.3d 853, 856 (Tex. Crim. App. 2000)
- Isaac v. State, 675 S.W.3d 116, 119 (Tex. App.—San Antonio 2023, no pet.)
- Matthews v. State, 431 S.W.3d 596, 604 n.28
- United States v. Martinez, 102 F.4th 677, 684 (5th Cir. 2024)
- Hernandez v. State, 585 S.W.3d 537, 554 (Tex. App.—San Antonio 2019, pet. ref'd)
- Nickerson v. State, 312 S.W.3d 250, 262 (Tex. App.—Houston [14th Dist.] 2010, pet. ref'd)
- West v. State, 406 S.W.3d 748, 764 (Tex. App.—Houston [14th Dist.] 2013, pet. ref'd)
- Crawford v. Washington, 541 U.S. 36, 68 (2004)
- Davis v. Washington, 547 U.S. 813, 822 (2006)
- Elsik v. State, 678 S.W.3d 360, 365-70 (Tex. App.—San Antonio 2023), aff'd, 714 S.W.3d 27 (Tex. Crim. App. 2024)
- United States v. Caraballo, 595 F.3d 1214, 1226-27 (11th Cir. 2010)
- Taylor v. State, 268 S.W.3d 271, 579, 592 (Tex. Crim. App. 2008)
- Cook v. State, 665 S.W.3d 595, 599 (Tex. Crim. App. 2023)
- Motilla v. State, 78 S.W.3d 352, 356-58 (Tex. Crim. App. 2002)

- Schutz v. State, 63 S.W.3d 442, 444-46 (Tex. Crim. App. 2001)
- Green v. Texas, 476 S.W.3d 440, 445 (Tex. Crim. App. 2015)
- Beltran De La Torre v. State, 583 S.W.3d 613, 617, 622 (Tex. Crim. App. 2019)
- Hutch v. State, 922 S.W.2d 166, 170 (Tex. Crim. App. 1996)
- Kirsch v. State, 357 S.W.3d 645, 649-52 (Tex. Crim. App. 2012)
- Bell v. State, 635 S.W.3d 641, 645 (Tex. Crim. App. 2021)
- Posey v. State, 966 S.W.2d 57, 62 (Tex. Crim. App. 1998)
- Wolfe v. State, 509 S.W.3d 325, 342-43 (Tex. Crim. App. 2017)
- Busby v. State, 253 S.W.3d 661, 673 (Tex. Crim. App. 2008)
- Lucio v. State, 351 S.W.3d 878, 896 (Tex. Crim. App. 2011)
- Matlock v. State, 392 S.W.3d 662, 667 (Tex. Crim. App. 2013)
- Nowlin v. State, 473 S.W.3d 312, 317 (Tex. Crim. App. 2015)
- Cary v. State, 507 S.W.3d 750, 759 n.8 (Tex. Crim. App. 2016)
- United States v. Barron-Cabrera, 119 F.3d 1454, 1461 (10th Cir. 1997)
- United States v. Yusuf, 57 F.4th 440, 445-46 (5th Cir. 2023)
- State v. Simpson, 488 S.W.3d 318, 323 (Tex. Crim. App. 2016)
- Graham v. Florida, Graham v. Florida, 560 U.S. 48, 58-60 (2010)
- Ajisebutu v. State, 236 S.W.3d 309, 313 (Tex. App.—Houston [1st Dist.] 2007, pet. ref'd)
- Craig v. State, 480 S.W.2d 680, 685 (Tex. Crim. App. 1972)
- Rhoten v. State, 299 S.W.3d 349, 356 (Tex. App.—Texarkana 2009, no pet.)

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