

COURT OF APPEALS, EIGHTH DISTRICT OF TEXAS, EL PASO

The State of Texas v. Aldemaro Raiael Perez

Perez · No. 08-24-00195-CR · Decided February 18, 2026

SUMMARY

The Texas Eighth Court of Appeals considers the State’s appeal from the dismissal of a misdemeanor riot-participation indictment against Aldemaro Raiael Perez. The court holds that the case was not properly transferred from the district court to the county court, that the county court’s jurisdiction was not properly invoked, and that dismissal was proper. The court affirms the dismissal and denies sanctions against the State and its prosecutors; Justice Soto separately concurs regarding sanctions.

CASE DETAILS

COURT	Court of Appeals, Eighth District of Texas, El Paso
WRITING FOR THE COURT	Per curiam; Palafox, J.; Soto, J.; Barajas, C.J. (Ret.), sitting by assignment
JURISDICTION	Court of Appeals, Eighth District of Texas, El Paso
DECIDED	February 18, 2026
DOCKET	08-24-00195-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the El Paso County Court at Law No. 7 order dismissing a misdemeanor indictment for lack of properly invoked jurisdiction. During the appeal, Perez moved to abate the case concerning inaccuracies in the clerk's record and sought sanctions against the State and individual prosecutors.
STANDARD OF REVIEW	Dismissal of an indictment is reviewed under a bifurcated standard: findings of fact supported by the record and mixed questions dependent on witness credibility receive almost total deference, while pure legal questions and mixed questions not dependent on credibility are reviewed de novo. Because the dismissal here depended on legal questions and mixed questions not dependent on witness credibility, the court reviewed the issue de novo.
PRECEDENTIAL VALUE	Published opinion; precedential under applicable Texas appellate rules. The separate concurrence is non-majority reasoning.
PARTIES	The State of Texas v. Aldemaro Raiael Perez

TOPICS

criminal procedure

appellate jurisdiction

appellate procedure

remedies

standard of review

PRACTICE AREAS

Texas criminal procedure

appellate jurisdiction

indictment transfer

clerk's record correction

appellate sanctions

QUESTIONS PRESENTED

1. Whether the county court properly determined that the district court's one-page certification and transfer order failed to transfer Perez's misdemeanor case or invoke the county court's jurisdiction.
2. Whether the State established that Perez's particular case was properly transferred to the county court despite the absence of a district-court cause number and the mismatch between the cause number in the indictment and the true-bill list.
3. Whether the county court should have transferred the case back to the district court rather than dismissing it.
4. Whether Perez established entitlement to dismissal with prejudice, attorney's fees, or other sanctions against the State and individual prosecutors.

HOLDINGS

1. The one-page certification and transfer order did not properly transfer Perez's misdemeanor case to the county court or invoke the county court's jurisdiction because it did not identify Perez's case by a district-court file number or other sufficient description, and no attached exhibit formed part of the order as it existed when the county court dismissed the case.
2. The State did not establish a valid transfer merely by showing that the transfer order, true-bill list, and indictment were delivered to or filed with the county clerk.
3. Dismissal was the proper remedy because the county court's jurisdiction was never properly invoked; the county court lacked authority to transfer the indictment back to the district court under the circumstances.
4. Perez failed to establish entitlement to dismissal with prejudice, attorney's fees, or other sanctions against the State or individual prosecutors.

KEY QUOTATIONS

"The transfer order filed in the county court, which purported to transfer a group of misdemeanor cases to the county court, did not provide a cause number or a district clerk's file number to identify Perez's indictment, did not provide "a sufficient description and identification of" Perez's case to identify it as a case to be transferred, and did not, in fact, provide any information that would have allowed the district court clerk to identify his case as one of the cases to be transferred or that would have enabled the county court to determine that Perez's case had been ordered transferred to the county court." (at 27-30)

“Thus, if a court lacks jurisdiction, “it has no authority to render any judgment other than one of dismissal.”” (at 32-33)

“We affirm the county court’s order dismissing Perez’s case. We deny Perez’s motion for sanctions against the State.” (at 37)

FACTUAL BACKGROUND

On May 21, 2024, an El Paso County district-court grand jury returned an indictment charging Perez with the Class B misdemeanor offense of participating in a riot. A district judge signed a general certification and transfer order referring to an eight-page exhibit identifying cases to be transferred, but the county clerk received the order as a one-page document without an attached exhibit and did not receive a district-court cause number for Perez's indictment. After the county court dismissed the case for lack of jurisdiction, the county clerk later inserted a true-bill list into the file without court authorization or notice, and the appellate court abated the appeal to determine the record's accuracy.

PROCEDURAL HISTORY

An El Paso County district-court grand jury returned an indictment charging Perez with participating in a riot, a misdemeanor. The county court dismissed the indictment after determining that the district court's certification and transfer order did not properly identify or transfer Perez's case. The court of appeals abated the appeal for an evidentiary hearing concerning the accuracy of the clerk's record, affirmed the dismissal, and denied Perez's sanctions motions.

DISPOSITION

affirmed

CASES CITED

- State v. Krizan-Wilson, 354 S.W.3d 808, 815 (Tex. Crim. App. 2011)
- State v. Barrera, 722 S.W.3d 894 (Tex. App.—El Paso 2025, pet. filed)
- State v. Dunbar, 297 S.W.3d 777, 780 (Tex. Crim. App. 2009)
- Trejo v. State, 280 S.W.3d 258, 260 (Tex. Crim. App. 2009)
- Dittforth v. State, 80 S.W. 628, 628 (Tex. Crim. App. 1904)
- Horton v. State, 20 S.W.2d 1111, 1111 (Tex. Crim. App. 1929) (per curiam)
- Lynn v. State, 13 S.W. 867, 868 (Tex. Crim. App. 1890)
- Austin v. State, 70 S.W. 724, 725 (Tex. Crim. App. 1897)
- Bird v. State, 91 S.W. 791, 791 (Tex. Crim. App. 1906)
- Garcia v. Dial, 596 S.W.2d 524, 528 n.5, 529 (Tex. Crim. App. 1980)
- State v. Patrick, 86 S.W.3d 592, 595 (Tex. Crim. App. 2002)
- Ex parte Caldwell, 383 S.W.2d 587, 589 (Tex. Crim. App. 1964)
- Ex parte Jones, 682 S.W.2d 311 (Tex. Crim. App. 1984) (en banc)

- Harris v. State, 565 S.W.2d 66, 68 (Tex. Crim. App. 1978) (en banc)
- State v. Terrazas, 962 S.W.2d 38, 40-42 (Tex. Crim. App. 1998) (en banc)
- State v. Johnson, 821 S.W.2d 609, 613-14 (Tex. Crim. App. 1991) (en banc)
- State v. Wachtendorf, 475 S.W.3d 895, 901 (Tex. Crim. App. 2015)
- Warner v. Glass, 135 S.W.3d 681, 684 (Tex. 2004)
- Stansberry v. State, 239 S.W.3d 260, 261, 263 (Tex. Crim. App. 2007)
- McCloud v. State, 527 S.W.2d 885, 887 (Tex. Crim. App. 1975)
- Amador v. State, 221 S.W.3d 666, 676-77 (Tex. Crim. App. 2007)
- Light v. State, 15 S.W.3d 104, 107 (Tex. Crim. App. 2000) (en banc)
- State v. Moff, 154 S.W.3d 599, 601 (Tex. Crim. App. 2004)
- State v. Gabaldon, No. PD-0149-23, 2025 WL 2588858, at *22 n.20, *26 (Tex. Crim. App. Sept. 3, 2025), reh'g denied (Nov. 6, 2025)
- Webster v. Comm'n for Lawyer Discipline, 704 S.W.3d 478, 489-90, 491, 496-97, 505 (Tex. 2024)
- Eichelberger v. Eichelberger, 582 S.W.2d 395, 398-99 (Tex. 1979)
- Darnell v. Broberg, 565 S.W.3d 450, 459-60 (Tex. App.—El Paso 2018, no pet.)