

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Kendrick L. Bess v. The State of Texas

Nos. 01-24-00411-CR and 01-24-00412-CR · No. Nos. 01-24-00411-CR and 01-24-00412-CR · Decided March 17, 2026

SUMMARY

The First Court of Appeals of Texas affirmed Kendrick L. Bess’s convictions for aggravated assault of a family member and possession of methamphetamine. Bess argued that the trial judge’s comments and questions during voir dire and trial deprived him of due process by demonstrating judicial bias and denying him a fair trial. The court held that the challenged comments were not improper and did not cumulatively deprive Bess of due process.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Susanna Dokupil; Guerra; Caughey; Dokupil
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	March 17, 2026
DOCKET	Nos. 01-24-00411-CR and 01-24-00412-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bess appealed jury convictions for aggravated assault of a family member and possession of methamphetamine, arguing that the trial judge's comments and questions during voir dire and trial deprived him of due process and a fair trial before a neutral and detached judge.
STANDARD OF REVIEW	The court reviewed the entire record to determine whether judicial bias or prejudice denied due process. For the due-process challenge to the trial court's comments, the court applied the test of whether the comments were improper and, if so, whether the defendant showed serious prejudice. The court presumed the trial court was neutral and detached absent a clear showing of bias.
PRECEDENTIAL VALUE	Unpublished and designated not for publication under TEX. R. APP. P. 47.2(b).
PARTIES	Kendrick L. Bess v. The State of Texas

TOPICS

due process

criminal procedure

appellate procedure

evidence

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the court should review Bess's multifarious sole issue challenging multiple comments and questions by the trial judge.
2. Whether the trial judge's voir dire comments concerning the presumption of innocence, the defendant's not-guilty status, and the indictment deprived Bess of due process.
3. Whether the trial judge's questions and comments concerning witness testimony improperly made the judge a witness or advocate and denied Bess a fair trial.
4. Whether the trial judge's comments directed at defense counsel demonstrated judicial bias or partiality in violation of due process.
5. Whether the cumulative effect of the challenged comments deprived Bess of due process.

HOLDINGS

1. The court declined to reject the issue as multifarious because it could determine with reasonable certainty that Bess challenged the combined effect of the judge's voir dire comments, comments allegedly amounting to testimony for witnesses, and comments directed at defense counsel.
2. Assuming without deciding that Bess could raise his due-process complaint without a contemporaneous trial objection, the court considered the merits of the complaint.
3. The judge's statements that Bess was presumed not guilty, that the State alone bore the burden of proof, and that the indictments were merely charging tools that proved nothing were not improper and did not deprive Bess of due process.
4. The judge's questions and comments concerning whether Bess was handcuffed and concerning the complainant's statement were permissible courtroom administration and clarification, not improper advocacy or testimony.
5. The judge's comments concerning counsel's request to approach the bench, the responsiveness of a witness's answer, and the witness's need to answer questions directly were not improper and did not establish judicial bias.
6. The cumulative effect of the challenged comments was not improper and did not deprive Bess of due process.

KEY QUOTATIONS

"A neutral and detached judge is one of the minimum requirements of due process in criminal proceedings."
(at 7)

“A judge’s ordinary efforts at courtroom administration will not support a claim of judicial bias even when they include “expressions of impatience, dissatisfaction, annoyance, and even anger.”” (at 8)

“Having concluded that the trial judge’s comments were not improper, we further conclude that the cumulative effect of these comments was also not improper or a deprivation of due process.” (at 16)

FACTUAL BACKGROUND

Houston police responded to a 911 call at Elisha Hawkins's apartment after she reported that Bess, her boyfriend, had choked her, held a gun to her head, and threatened to kill her. Officers found Bess with a loaded firearm and a prescription bottle containing methamphetamine. A jury convicted Bess of aggravated assault of a family member and possession of more than four grams and less than 200 grams of methamphetamine, and the trial court imposed concurrent thirty-year sentences after Bess pleaded true to prior-conviction enhancements.

PROCEDURAL HISTORY

A jury convicted Bess of aggravated assault of a family member and possession of a controlled substance. Bess pleaded true to enhancement allegations, and the 178th District Court of Harris County assessed concurrent thirty-year prison sentences for each conviction. Bess appealed without objecting at trial to the challenged judicial comments and questions.

DISPOSITION

affirmed

CASES CITED

- Thomas v. State, 615 S.W.3d 552, 566 (Tex. App.—Houston [1st Dist.] 2020, no pet.)
- Davis v. State, 329 S.W.3d 798, 803 (Tex. Crim. App. 2010)
- Stults v. State, 23 S.W.3d 198, 205 (Tex. App.—Houston [14th Dist.] 2000, pet. ref'd)
- Rodriguez v. State, No. 01-23-00664-CR, 2025 WL 1335328 (Tex. App.—Houston [1st Dist.] May 8, 2025, pet. ref'd)
- Proenza v. State, 541 S.W.3d 786, 797 (Tex. Crim. App. 2017)
- Heiselbetz v. State, 906 S.W.2d 500, 512 (Tex. Crim. App. 1995)
- Mayweather v. State, 722 S.W.3d 116, 120 (Tex. App.—Houston [1st Dist.] 2025, no pet.)
- Avilez v. State, 333 S.W.3d 661, 673 (Tex. App.—Houston [1st Dist.] 2010, pet. ref'd)
- Ward v. Village of Monroeville, Ohio, 409 U.S. 57, 62 (1972)
- Brumit v. State, 206 S.W.3d 639, 645 (Tex. Crim. App. 2006)
- Riggins v. State, 714 S.W.3d 74, 90 (Tex. App.—Houston [1st Dist.] 2023, pet. ref'd)
- Abdygapparova v. State, 243 S.W.3d 191, 198 (Tex. App.—San Antonio 2007, pet. ref'd)
- Tapia v. State, 462 S.W.3d 29, 44 (Tex. Crim. App. 2015)
- Liteky v. United States, 510 U.S. 540, 555-56 (1994)
- Stewart v. State, 438 S.W.2d 560, 561-62 (Tex. Crim. App. 1969)

- Hunter v. State, 691 S.W.3d 247, 251 (Tex. App.—Dallas 2024, no pet.)
- United States v. Saenz, 134 F.3d 697, 701-02 (5th Cir. 1998)
- Dang v. State, 154 S.W.3d 616, 619 (Tex. Crim. App. 2005)
- Irsan v. State, 708 S.W.3d 584, 607 (Tex. Crim. App. 2025)
- Miles v. State, 204 S.W.3d 822, 825 (Tex. Crim. App. 2006)
- Jenkins v. State, 592 S.W.3d 894, 898 (Tex. Crim. App. 2018)

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