

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Hector Manuel Rodriguez v. The State of Texas

Nos. 01-24-00728-CR, 01-24-00729-CR (Tex. App.—Houston [1st Dist.] May 5, 2026) (mem. op.) · No. Nos. 01-24-00728-CR, 01-24-00729-CR · Decided May 5, 2026

SUMMARY

The First Court of Appeals of Texas affirmed the judgments sentencing Hector Manuel Rodriguez to concurrent 30-year terms in two child-sexual-assault cases. The court declined to abate the appeals to permit out-of-time motions for new trial, concluding that alleged ineffective assistance of trial counsel could be raised through a post-conviction habeas corpus proceeding and that the circumstances were not truly extraordinary.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Andrew Johnson; Rivas-Molloy; Johnson; Dokupil
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	May 5, 2026
DOCKET	Nos. 01-24-00728-CR, 01-24-00729-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rodriguez appealed the judgments in two criminal cases and requested abatement of the appeals and remand to permit him to file out-of-time motions for new trial. He asserted that waivers of his right to file motions for new trial were involuntary and that he intended to raise ineffective assistance of trial counsel.
STANDARD OF REVIEW	The court applied the governing legal standards for suspension of appellate rules and requests for out-of-time motions for new trial; it did not decide the validity of Rodriguez's waivers or the merits of his ineffective-assistance claim.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; marked Do not publish under Texas Rule of Appellate Procedure 47.2(b).
PARTIES	Hector Manuel Rodriguez v. The State of Texas

TOPICS

appellate procedure

post-conviction relief

ineffective assistance

criminal procedure

PRACTICE AREAS

Texas criminal appellate procedure

criminal post-conviction relief

ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether the court of appeals should suspend the applicable filing deadline under Texas Rule of Appellate Procedure 2 and remand to permit Rodriguez to file out-of-time motions for new trial.
2. Whether the asserted ineffective assistance of trial counsel constituted truly extraordinary circumstances warranting abatement and remand.
3. Whether the court should decide whether Rodriguez's waivers of the right to file motions for new trial were invalid.

HOLDINGS

1. An intermediate appellate court should not use Rule 2 to allow out-of-time motions for new trial after the appeal has been perfected and the record filed absent truly extraordinary circumstances.
2. An ineffective-assistance claim that can be developed in a post-conviction writ of habeas corpus does not, by itself, constitute the truly extraordinary circumstance necessary for an appellate court to order an out-of-time motion for new trial.
3. The court did not decide whether Rodriguez signed invalid waivers of his right to file motions for new trial.

KEY QUOTATIONS

“the ‘Court of Criminal Appeals has instructed intermediate appellate courts not to allow defendants to file out-of-time motions for new trial ‘absent truly extraordinary circumstances’” (at 4)

“Rule 2 ‘‘does not authorize courts of appeals to reach back, after the appeal has been perfected and the record filed, and alter the course of events at the trial court level.’” (at 4)

“trial counsel’s alleged ineffectiveness ‘can be raised in a post-conviction writ of habeas corpus, which is the preferred vehicle for raising a complaint regarding trial counsel’s performance.’” (at 4)

FACTUAL BACKGROUND

Rodriguez pleaded guilty in two Fort Bend County cases under agreements that did not include punishment recommendations. After a punishment hearing at which the victim testified and Rodriguez presented evidence concerning his military-related mental-health issues, the trial court imposed concurrent thirty-year sentences. Rodriguez contended that written waivers of motions for new trial were involuntary and that trial counsel was ineffective for failing to present additional mental-health evidence.

PROCEDURAL HISTORY

Rodriguez pleaded guilty pursuant to plea agreements in two cases involving sexual offenses against a child. After punishment hearings, the trial court imposed concurrent thirty-year sentences and entered final judgments. Trial counsel did not file motions for new trial, motions to withdraw, or notices of appeal. Rodriguez filed pro se motions for appellate counsel and notices of appeal concerning punishment; appellate counsel was appointed, and the appeals followed. The Court of Appeals denied abatement and affirmed the judgments.

DISPOSITION

affirmed

CASES CITED

- Laws v. State, 693 S.W.3d 718, 726-27 (Tex. App.—Houston [14th Dist.] 2024, pet. ref'd)
- Oldham v. State, 977 S.W.2d 354, 360 (Tex. Crim. App. 1998)
- State v. Garza, 931 S.W.2d 560, 563 (Tex. Crim. App. 1996)
- Washington v. State, No. 01-11-00093-CR, 2013 WL 5604715, at *6 & n.1 (Tex. App.—Houston [1st Dist.] Oct. 10, 2013, pet. ref'd) (mem. op., not designated for publication)
- Johnson v. State, No. 06-08-00012-CR, 2008 WL 11395458, at *2 n.1 (Tex. App.—Texarkana Sept. 5, 2008, no pet.) (mem. op.)