

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS,
CORPUS CHRISTI–EDINBURG

The State of Texas v. Andrew Abel Gonzalez

No. 13-25-00309-CR · No. 13-25-00309-CR · Decided January 8, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas considered the State’s interlocutory appeal from an order suppressing an audio recording of a school resource officer’s conversation during a classroom search. The court held that the officer had no objectively reasonable expectation of privacy in statements made while performing official duties in a public school classroom, and that the recording did not constitute an “oral communication” protected by the Texas Wiretap Statute under the circumstances. The court reversed the suppression order and remanded with instructions to deny the motion to suppress.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas, Corpus Christi–Edinburg
WRITING FOR THE COURT	Ysmael D. Fonseca; Justice Silva; Justice Cron; Justice Fonseca
JURISDICTION	Texas Court of Appeals, Thirteenth District, Corpus Christi–Edinburg
DECIDED	January 8, 2026
DOCKET	13-25-00309-CR
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State brought an interlocutory appeal from the county court's order granting Gonzalez's motion to suppress an audio recording under Texas Code of Criminal Procedure article 44.01(a)(5).
STANDARD OF REVIEW	The court applied a bifurcated standard for suppression rulings, giving deference to historical facts and credibility-based applications of law to fact, but reviewing legal questions de novo. Because the parties stipulated to uncontested facts and the trial court made no factual rulings, the court reviewed the issues de novo while viewing the record in the light most favorable to the trial court's ruling.
PRECEDENTIAL VALUE	Published opinion; precedential under Texas Rule of Appellate Procedure 47.2(b).

TOPICS

suppression of evidence

search and seizure

fourth amendment

criminal procedure

appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by suppressing an audio recording under the Fourth Amendment when the recording was made by a private student during Gonzalez's investigation in a public-school classroom.
2. Whether Gonzalez had an objectively reasonable expectation of privacy in statements made while acting as a law enforcement officer in a public classroom, such that the statements constituted an oral communication protected by the Texas Wiretap Statute and suppressible under article 38.23.
3. Whether Gonzalez's unbriefed and unpreserved Fifth and Sixth Amendment arguments could support suppression.

HOLDINGS

1. The Fourth Amendment does not apply to the student's private recording of Gonzalez because the student was not acting on behalf of law enforcement or in any capacity other than as a private citizen. Article 38.23 therefore did not provide a proper basis for suppressing the recording on Fourth Amendment grounds.
2. Gonzalez did not have an objectively reasonable expectation of privacy in statements made while acting as a law enforcement officer during an investigation in a public-school classroom. Accordingly, the statements were not an oral communication protected by the Texas Wiretap Statute, and suppression was unwarranted.
3. The court did not consider Gonzalez's Fifth and Sixth Amendment arguments because they were not briefed or presented to the trial court and therefore were waived.

KEY QUOTATIONS

"This statute enables "suppression of evidence obtained by private individuals in violation of criminal laws." (3)

"Therefore, to determine if the student's cell phone recording should have been suppressed, we must determine if Gonzalez had a subjective expectation of privacy and whether society is prepared to recognize his expectation as objectively reasonable." (5)

"If we were to read Long to create a personal privacy interest on the part of government agents in the course of their duties, this would run contrary to the principles of restraint against government that the Fourth Amendment analysis is intended to protect." (9)

“Accordingly, we find no historical notion of privacy under Texas law for a law enforcement officer conducting a search in a public-school classroom.” (12)

FACTUAL BACKGROUND

Andrew Abel Gonzalez was a school resource officer on duty at Hamlin Middle School when he and vice principal Amanda Corona cleared a classroom and searched students' belongings for a vape pen. A student had left a cellphone recording, and the recording captured Gonzalez and Corona locating the vape pen and discussing placing it in a student's backpack without evidence of ownership. The recording was provided to law enforcement, leading to Gonzalez's arrest and charges for three counts of official oppression.

PROCEDURAL HISTORY

Gonzalez, a school resource officer, was charged with three counts of official oppression after a student's cellphone recorded Gonzalez and a school administrator discussing the discovery and possible placement of a vape pen. Gonzalez moved to suppress the recording under the Fourth Amendment, the Texas Wiretap Statute, and related constitutional provisions. The County Court at Law No. 3 of Nueces County granted the motion on May 30, 2025. The State appealed, and the court of appeals reversed and remanded with instructions to deny the motion to suppress.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's order granting the motion to suppress, remand, and instruct the trial court to deny the motion to suppress and conduct further proceedings consistent with the opinion.

CASES CITED

- Hawkins v. State, 592 S.W.3d 602, 609 (Tex. App.—Corpus Christi—Edinburg 2020, pet. ref'd)
- Pecina v. State, 361 S.W.3d 68, 79 (Tex. Crim. App. 2012)
- Hernandez v. State, 533 S.W.3d 472, 478 (Tex. App.—Corpus Christi—Edinburg 2017, pet. ref'd)
- Leza v. State, 351 S.W.3d 344, 349 (Tex. Crim. App. 2011)
- State v. Mercado, 972 S.W.2d 75, 78 (Tex. Crim. App. 1998) (en banc)
- State v. Ruiz, 577 S.W.3d 543, 546–47 (Tex. Crim. App. 2019)
- Walter v. United States, 447 U.S. 649, 656 (1980)
- State v. Robinson, 334 S.W.3d 776, 779 (Tex. Crim. App. 2011)
- Long v. State, 535 S.W.3d 511, 521, 524–25, 529, 541 (Tex. Crim. App. 2017)
- State v. Granville, 423 S.W.3d 399, 405 (Tex. Crim. App. 2014)
- Plock v. Bd. of Educ. of Freeport Sch. Dist. 145, 545 F. Supp. 2d 755, 756 (N.D. Ill. 2008)
- Roberts v. Hou. Indep. Sch. Dist., 788 S.W.2d 107, 111 (Tex. App.—Houston [1st Dist.] 1990, writ denied)

- United States v. Arredondo-Morales, 624 F.2d 681, 685 (5th Cir. 1980)
- Shields v. Burge, 874 F.2d 1201, 1204 (7th Cir. 1989)
- Hornberger v. Am. Broad. Cos., 799 A.2d 566, 593–94 (N.J. Super. Ct. App. Div. 2002)
- Angel v. Williams, 12 F.3d 786, 790 (8th Cir. 1993)
- State v. Flora, 845 P.2d 1355, 1357 (Wash. 1993)
- Shawgo v. Spradlin, 701 F.2d 470, 483 (5th Cir. 1983)
- Thompson v. City of Arlington, Tex., 838 F. Supp. 1137, 1145 (N.D. Tex. 1993)
- Richardson v. City of Pasadena, 500 S.W.2d 175, 177 (Tex. App.—Houston [14th Dist.] 1973), rev'd on other grounds, 513 S.W.2d 1 (Tex. 1974)

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