

COURT OF APPEALS OF TEXAS, FOURTEENTH COURT OF APPEALS

Gorge Luis Olmos v. the State of Texas

No. 14-21-00461-CR · No. No. 14-21-00461-CR · Decided August 8, 2023

SUMMARY

This is a concurring opinion in an aggravated-assault appeal involving the defendant's use of a gay panic defense. Justice Charles A. Spain concurred in the judgment affirming the trial court but declined to join the majority opinion, criticizing its reframing of the appellate issues and its discussion of error preservation.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth Court of Appeals
WRITING FOR THE COURT	Charles A. Spain; Poissant; Wilson
JURISDICTION	Texas
DECIDED	August 8, 2023
DOCKET	No. 14-21-00461-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an aggravated-assault judgment entered by the 239th District Court of Brazoria County, Texas.
PRECEDENTIAL VALUE	Published opinion; the supplied text is a concurring opinion.
PARTIES	Gorge Luis Olmos v. The State of Texas

TOPICS

- criminal procedure
- appellate procedure
- preservation of error
- self defense

PRACTICE AREAS

- criminal law
- criminal appellate procedure

QUESTIONS PRESENTED

- How the appellant's appellate issues should be characterized in light of his use of the gay panic defense.
- Whether the challenged trial-court judgment should be affirmed.

3. What requirements governed preservation of the appellant's appellate complaint under Texas Rule of Appellate Procedure 33.1(a).

KEY QUOTATIONS

“The defense strategy should be recognized for what it is.” (2)

“I do not join the majority opinion” (2)

FACTUAL BACKGROUND

The case arose from an aggravated assault involving a deceased complainant. At trial, the State directly addressed whether an alleged sexual advance by the complainant could justify the defendant's beating the complainant to death. The concurrence characterizes the defense strategy as a gay panic defense.

PROCEDURAL HISTORY

Olmos appealed the trial court's judgment in an aggravated assault case. In this concurrence, Justice Spain agreed with affirmance but declined to join the majority opinion because, in his view, it reframed the appellant's issues in a way that downplayed the gay panic defense and unnecessarily complicated the preservation analysis.

DISPOSITION

affirmed

CASES CITED

- People v. Rodriguez, 64 Cal. 253 Rptr. 255 (1967)
- Laws v. State, 640 S.W.3d 227, 229–31 (Tex. Crim. App. 2022)