

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Maximiliano Gazca v. The State of Texas

No. 04-24-00392-CR (Tex. App.—San Antonio June 17, 2026) · No. 04-24-00392-CR · Decided June 17, 2026

SUMMARY

The Fourth Court of Appeals of Texas affirmed Maximiliano Gazca’s murder conviction and forty-year sentence. The court held that Gazca failed to preserve his challenge to the reliability of crime-scene reconstruction expert testimony and that the trial court did not abuse its discretion in denying his motion for new trial based on unsupported allegations of juror misconduct.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Velia J. Meza; Rebeca C. Martinez, Chief Justice; H. Todd McCray, Justice; Velia J. Meza, Justice
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	June 17, 2026
DOCKET	04-24-00392-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gazca appealed his murder conviction and forty-year sentence, challenging the admission of the State's crime-scene-reconstruction expert testimony and the denial of his motion for new trial based on alleged juror misconduct.
STANDARD OF REVIEW	Unpreserved complaints concerning expert-testimony reliability are not reviewed. The denial of a motion for new trial is reviewed for abuse of discretion, with the trial court serving as the exclusive judge of the credibility of evidence offered in support of the motion.
PRECEDENTIAL VALUE	Published
PARTIES	Maximiliano Gazca v. The State of Texas

TOPICS

- criminal procedure
- appellate procedure
- expert testimony
- preservation of error
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Gazca preserved a challenge under Texas Rule of Evidence 702, Kelly, and the ipse dixit doctrine to the reliability of the scientific principles and methodologies underlying the State's crime-scene-reconstruction expert testimony.
2. Whether the trial court abused its discretion by denying Gazca's motion for new trial based on alleged juror misconduct when the motion lacked affidavits or other competent evidence establishing the alleged nondisclosure or prohibited communication.

HOLDINGS

1. Gazca's objection to the expert's qualifications and lack of blood-spatter accreditation did not preserve a challenge to the reliability of the scientific principles or methodologies underlying crime-scene reconstruction. Because the reliability complaint was raised for the first time on appeal, it presented nothing for review.
2. The trial court did not abuse its discretion by denying Gazca's motion for new trial because the motion contained no affidavits or other competent evidence establishing that the juror withheld material information, engaged in prohibited communication, or otherwise committed misconduct that probably affected the verdict.

KEY QUOTATIONS

"Accordingly, the opponent must identify the particular aspect of reliability being challenged." (13)

"Allegations in a motion—unsupported by sworn testimony—are not evidence." (15)

"A Facebook photograph, standing alone, does not establish juror misconduct." (16)

FACTUAL BACKGROUND

Gazca shot Antonio Aguilera nineteen times, striking him sixteen times, after Aguilera came to the Gazca residence following a dispute with Gazca's sister. Gazca testified that he retrieved and loaded a firearm, fired warning shots, and then shot Aguilera because he feared Aguilera might harm him or his family, although Aguilera was unarmed and did not physically attack him. The State introduced eyewitness, physical, digital, autopsy, and crime-scene-reconstruction evidence, while Gazca challenged the reliability and admissibility of the reconstruction expert's testimony and later alleged juror misconduct.

PROCEDURAL HISTORY

A Starr County jury convicted Gazca of murder, acquitted him of aggravated assault involving the victim's mother, rejected his sudden-passion claim, and assessed forty years' confinement. The trial court imposed sentence and denied Gazca's motion for new trial, which alleged juror misconduct but was unsupported by affidavits or other competent evidence. The Texas Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Matson v. State, 819 S.W.2d 839, 851-52 (Tex. Crim. App. 1991)
- Null v. State, 690 S.W.3d 305, 311, 318-19 (Tex. Crim. App. 2024)
- Williams v. State, 662 S.W.3d 452, 460 (Tex. Crim. App. 2021)
- Hughes v. State, 878 S.W.2d 142, 151 (Tex. Crim. App. 1992) (op. on reh'g)
- Fuller v. State, 829 S.W.2d 191, 199 n.4 (Tex. Crim. App. 1992)
- Engelman Irrigation Dist. v. Shields Bros., Inc., 514 S.W.3d 746, 748 (Tex. 2017)
- Proctor v. State, 967 S.W.2d 840, 845 n.5 (Tex. Crim. App. 1998)
- Callison v. State, 218 S.W.3d 822, 825 (Tex. App.—Beaumont 2007, no pet.)
- Najjar v. State, 618 S.W.3d 366, 372, 374 (Tex. Crim. App. 2021)
- Evans v. State, 202 S.W.3d 158, 163-65 (Tex. Crim. App. 2006)
- Elston v. Sherman Coca-Cola & Dr. Pepper Co., 596 S.W.2d 215, 217 (Tex. App.—Texarkana 1980, no writ)
- Whited v. Powell, 285 S.W.2d 364 (Tex. 1956)
- Curry v. State, 222 S.W.3d 745, 755 (Tex. App.—Waco 2007, pet. ref'd)
- Mem'l Park Med. Ctr., Inc. v. Bob Thornhill Trucking, No. 11-24-00064-CV, 2026 WL 191948, at *3 (Tex. App.—Eastland Jan. 22, 2026, pet. filed)