

COURT OF APPEALS OF TEXAS, TWELFTH COURT OF APPEALS DISTRICT

Miguel Williams, Sr. v. State

No. 12-18-00337-CR · No. No. 12-18-00337-CR · Decided January 15, 2020

SUMMARY

The Texas Twelfth Court of Appeals affirmed Miguel Williams, Sr.'s three convictions for indecency with a child by contact. The court held that although hearsay outcry evidence was improperly admitted because the victim was fifteen years old and therefore outside the applicable statutory age range, any error was harmless because similar evidence was admitted without objection and other evidence supported the convictions.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth Court of Appeals District
WRITING FOR THE COURT	Brian Hoyle; Worthen, C.J.; Brian Hoyle, J.; Neeley, J.
JURISDICTION	Texas
DECIDED	January 15, 2020
DOCKET	No. 12-18-00337-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from three convictions for indecency with a child by contact following a jury trial.
STANDARD OF REVIEW	The admission of outcry testimony under Texas Code of Criminal Procedure article 38.072 is reviewed for abuse of discretion. Any resulting evidentiary error is reviewed for nonconstitutional harm under Texas Rule of Appellate Procedure 44.2(b), requiring reversal only if the error affected the defendant's substantial rights.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; marked DO NOT PUBLISH.
PARTIES	Miguel Williams, Sr. v. The State of Texas

TOPICS

- hearsay
- evidence
- criminal procedure
- harmless error
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- appellate practice

QUESTIONS PRESENTED

1. Whether Texas Code of Criminal Procedure article 38.072 authorized admission of the victim's outcry statements when the victim was fifteen years old at the time of the alleged offenses.
2. Whether any error in admitting the outcry testimony and interview evidence affected Williams's substantial rights and required reversal.
3. Whether Williams preserved his complaint regarding the forensic interviewer's testimony and the video interview.

HOLDINGS

1. Article 38.072 did not apply because the victim was fifteen years old at the time of the alleged offenses, whereas the statute applies only when the child victim is younger than fourteen.
2. Williams arguably preserved error as to the victim's mother's testimony, but did not preserve error as to the forensic interviewer's testimony and the video interview because defense counsel disclaimed any further request concerning the statutory outcry procedure.
3. Any error in admitting the outcry evidence was harmless because the victim testified without objection to the same abuse in considerable detail, and other evidence independently supported the convictions.

KEY QUOTATIONS

“Accordingly, even though the outcry evidence should not have been admitted under Article 38.072, we have fair assurance that it did not influence the verdict or had but slight effect.” (at 4)

FACTUAL BACKGROUND

Williams was accused of touching the fifteen-year-old victim's genitals on three occasions with intent to gratify his sexual desire. The State introduced testimony from the victim's mother, a forensic interviewer, and a video interview as outcry evidence, over Williams's hearsay objections. The victim testified at trial in considerable detail without objection, and three adult brothers testified that Williams had sexually abused them when they were younger.

PROCEDURAL HISTORY

Williams was indicted for continuous sexual abuse of a child and pleaded not guilty. During trial, the State abandoned that charge and pursued three lesser-included counts of indecency with a child by contact. The jury convicted Williams on all three counts, assessed twenty years' imprisonment and a \$10,000 fine for each offense, and the trial court ordered the sentences to run consecutively. Williams appealed, challenging the admission of outcry hearsay evidence.

DISPOSITION

affirmed

CASES CITED

- Soliz v. State, 353 S.W.3d 850, 854 (Tex. Crim. App. 2011)
- Sanchez v. State, 354 S.W.3d 476, 484 (Tex. Crim. App. 2011)
- Lopez v. State, 343 S.W.3d 137, 140 (Tex. Crim. App. 2011)
- Long v. State, 800 S.W.2d 545, 547-48 (Tex. Crim. App. 1990)
- Lamerand v. State, 540 S.W.3d 252, 258-60 (Tex. App.—Houston [1st Dist.] 2018, pet. ref'd)
- Sandoval v. State, 409 S.W.3d 259, 287-88 (Tex. App.—Austin 2013, no pet.)
- Kirby v. State, 208 S.W.3d 568, 574 (Tex. App.—Austin 2006, no pet.)
- Casey v. State, 215 S.W.3d 870, 885 (Tex. Crim. App. 2007)
- Nino v. State, 223 S.W.3d 749, 754 (Tex. App.—Houston [14th Dist.] 2007, no pet.)
- Barshaw v. State, 342 S.W.3d 91, 93 (Tex. Crim. App. 2011)
- Anderson v. State, 717 S.W.2d 622, 628 (Tex. Crim. App. 1986)
- Garner v. State, 523 S.W.3d 266, 271 (Tex. App.—Dallas 2017, no pet.)
- West v. State, 121 S.W.3d 95, 105 (Tex. App.—Fort Worth 2003, pet. ref'd)
- Baez v. State, 486 S.W.3d 592, 598-99 (Tex. App.—San Antonio 2016, pet. ref'd)

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