

COURT OF APPEALS OF TEXAS, NINTH DISTRICT AT BEAUMONT

Edwin Thomas Baty v. the State of Texas

No. 09-24-00252-CR · No. 09-24-00252-CR · Decided May 27, 2026

SUMMARY

The Ninth Court of Appeals of Texas considers Edwin Thomas Baty’s appeal from a capital-murder conviction and life sentence. Baty argues that trial counsel was ineffective for failing to object to extraneous-offense evidence, his invocation of the right to counsel during a recorded interview, and alleged jury-charge errors; he also challenges the legality of the sentence. The court affirms the judgment as modified.

CASE DETAILS

COURT	Court of Appeals of Texas, Ninth District at Beaumont
WRITING FOR THE COURT	Kent Chambers; Johnson; Wright
JURISDICTION	Court of Appeals of Texas, Ninth District at Beaumont
DECIDED	May 27, 2026
DOCKET	09-24-00252-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a capital-murder conviction and sentence. Baty challenged the judgment on ineffective-assistance-of-counsel grounds and argued that the written judgment imposed an illegal sentence.
STANDARD OF REVIEW	Ineffective-assistance claims are reviewed under the two-pronged Strickland test, requiring deficient performance and prejudice, with a strong presumption that counsel's conduct was reasonable. On unpreserved jury-charge complaints, reversal requires egregious harm. A reviewing court may reform a judgment to conform to the sentence orally pronounced.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; marked Do Not Publish.
PARTIES	Edwin Thomas Baty v. The State of Texas

TOPICS

- ineffective assistance
- criminal procedure
- self defense
- jury selection
- sentencing

PRACTICE AREAS

criminal law

criminal procedure

appellate law

evidence

sentencing

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to object to evidence of Baty's prior aggravated-sexual-assault conviction, alcohol and marijuana use, and alleged prior abuse of Jorgensen by Jorgensen's father.
2. Whether trial counsel was ineffective for failing to object to the jury's hearing Baty invoke his right to terminate the interview and request counsel.
3. Whether trial counsel was ineffective for failing to object to alleged errors in the jury charge concerning a benefit-of-the-doubt instruction, the phrase 'attempted use' in the self-defense application paragraph, and provocation.
4. Whether the written judgment imposed an illegal sentence by stating that Baty was eligible for parole despite the capital-murder sentence required by statute.

HOLDINGS

1. Baty failed to establish deficient performance because the challenged evidence was admissible or counsel could have had a reasonable trial strategy for not objecting to it.
2. Baty failed to show that counsel's failure to object to the recording of his invocation of the right to counsel and right to terminate questioning constituted ineffective assistance.
3. Baty failed to establish ineffective assistance based on the omitted benefit-of-the-doubt instruction, the omission of 'attempted use' from one self-defense application sentence, or the provocation instruction.
4. The written judgment was required to be reformed to state that Baty was sentenced to life imprisonment without the possibility of parole.

KEY QUOTATIONS

“To prevail on a claim of ineffective assistance of counsel, an appellant must meet a two-pronged test: First, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense.” (18-20)

“When the sentence set out in the judgment conflicts with the oral pronouncement, the oral pronouncement controls.” (40)

FACTUAL BACKGROUND

The State alleged that Baty intentionally shot and killed Christopher Aaron Jorgensen while committing or attempting to commit obstruction or retaliation, because Jorgensen threatened to report Baty's sexual abuse of him and Baty feared another conviction would result in life imprisonment. Baty claimed self-defense, asserting that Jorgensen attacked Alvin Zachary, followed Baty into his residence, and charged him. The evidence included Baty's recorded statements, testimony concerning the parties' relationships and prior conduct, crime-

scene evidence, and evidence that two shooters were involved. The jury rejected self-defense, convicted Baty of capital murder, and assessed life without parole.

PROCEDURAL HISTORY

Baty was indicted for capital murder by terroristic threat or other felony in the 253rd District Court of Liberty County. A jury found him guilty and assessed life imprisonment without parole, and the trial court orally pronounced that sentence. The written judgment incorrectly stated life imprisonment with the possibility of parole. Baty's motion for new trial was overruled by operation of law, and he appealed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 687, 690, 694 (1984)
- Hernandez v. State, 726 S.W.2d 53, 57 (Tex. Crim. App. 1986)
- Bone v. State, 77 S.W.3d 828, 833, 836 (Tex. Crim. App. 2002)
- Thompson v. State, 9 S.W.3d 808, 813-14 (Tex. Crim. App. 1999)
- Andrews v. State, 159 S.W.3d 98, 102 (Tex. Crim. App. 2005)
- Lopez v. State, 343 S.W.3d 137, 143 (Tex. Crim. App. 2011)
- Garcia v. State, 57 S.W.3d 436, 440 (Tex. Crim. App. 2001)
- Goodspeed v. State, 187 S.W.3d 390, 392 (Tex. Crim. App. 2005)
- Ortiz v. State, 93 S.W.3d 79, 93 (Tex. Crim. App. 2002)
- Agbogwe v. State, 414 S.W.3d 820, 835 (Tex. App.—Houston [1st Dist.] 2013, no pet.)
- Graham v. State, 19 S.W.3d 851, 853 (Tex. Crim. App. 2000)
- Austin v. State, 222 S.W.3d 801, 807-08 (Tex. App.—Houston [14th Dist.] 2007, pet. ref'd)
- Rylander v. State, 101 S.W.3d 107, 111 (Tex. Crim. App. 2003)
- Johnson v. State, 624 S.W.3d 579, 586 (Tex. Crim. App. 2021)
- Ex parte Saenz, 491 S.W.3d 819, 828 (Tex. Crim. App. 2016)
- Garcia v. State, 191 S.W.3d 870, 877 (Tex. App.—Houston [14th Dist.] 2006, no pet.)
- McNeil v. Wisconsin, 501 U.S. 171, 176 (1991)
- Kalisz v. State, 32 S.W.3d 718, 721, 724 (Tex. App.—Houston [14th Dist.] 2000, pet. ref'd)
- Hardie v. State, 807 S.W.2d 319, 322 (Tex. Crim. App. 1991)
- Doyle v. Ohio, 426 U.S. 610, 619 (1976)
- Howard v. State, 482 S.W.3d 249, 258-59 (Tex. App.—Houston [1st Dist.] 2015, pet. ref'd)
- Westbrook v. State, 29 S.W.3d 103, 120 (Tex. Crim. App. 2000)
- Mendez v. State, 545 S.W.3d 548, 551-52 (Tex. Crim. App. 2018)
- Vasquez v. State, 389 S.W.3d 361, 366-67 (Tex. Crim. App. 2012)

- *Abdnor v. State*, 871 S.W.2d 726, 731-32 (Tex. Crim. App. 1994)
- *Dinkins v. State*, 894 S.W.2d 330, 339 (Tex. Crim. App. 1995)
- *Jordan v. State*, 593 S.W.3d 340, 343 (Tex. Crim. App. 2020)
- *Kirsch v. State*, 357 S.W.3d 645, 649 (Tex. Crim. App. 2012)
- *Middleton v. State*, 125 S.W.3d 450, 453 (Tex. Crim. App. 2003)
- *Almanza v. State*, 686 S.W.2d 157, 171-72 (Tex. Crim. App. 1985)
- *Barrios v. State*, 283 S.W.3d 348, 349-52 (Tex. Crim. App. 2009)
- *Sandoval v. State*, 665 S.W.3d 496, 532-38 (Tex. Crim. App. 2022)
- *McCall v. State*, 14 Tex. Ct. App. 353, 363 (1883)
- *Benavides v. State*, 763 S.W.2d 587, 589 (Tex. App.—Corpus Christi–Edinburg 1988, pet. ref'd)
- *Walters v. State*, 247 S.W.3d 204, 208, 214 (Tex. Crim. App. 2007)
- *Posey v. State*, 966 S.W.2d 57, 62 (Tex. Crim. App. 1998)
- *Taylor v. State*, 332 S.W.3d 483, 487 (Tex. Crim. App. 2011)
- *Bundy v. State*, 280 S.W.3d 425, 430-31 (Tex. App.—Fort Worth 2009, pet. ref'd)
- *Valentine v. State*, 587 S.W.2d 399, 401 (Tex. Crim. App. [Panel Op.] 1979)
- *Smith v. State*, 965 S.W.2d 509, 513-14 (Tex. Crim. App. 1998)
- *Manrique v. State*, No. 02-19-00458-CR, 2021 Tex. App. LEXIS 7682, at *28 (Tex. App.—Fort Worth Sept. 16, 2021, no pet.) (mem. op., not designated for publication)
- *Taylor v. State*, 131 S.W.3d 497, 500 (Tex. Crim. App. 2004)
- *Thompson v. State*, 108 S.W.3d 287, 290 (Tex. Crim. App. 2003)