

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

Marc Edwin Brooks v. The State of Texas

No. 13-24-00252-CR (Tex. App.—Corpus Christi—Edinburg Dec. 11, 2025) (mem. op.) · No. 13-24-00252-CR ·
Decided December 11, 2025

SUMMARY

The Thirteenth Court of Appeals of Texas considered Marc Edwin Brooks’s appeal from his conviction for aggravated sexual assault of a child. Brooks argued that the indictment failed to provide adequate notice and that the trial court improperly denied a mistrial after a witness mentioned polygraph testing. The court overruled both issues and affirmed the conviction, concluding that the indictment provided sufficient notice and that Brooks failed to timely preserve his objection to the polygraph testimony.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas
WRITING FOR THE COURT	Justice Clarissa Silva; Justice Peña; Justice Cron
JURISDICTION	Court of Appeals for the Thirteenth District of Texas
DECIDED	December 11, 2025
DOCKET	13-24-00252-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brooks appealed his conviction for aggravated sexual assault of a child, challenging the denial of his motion to quash the indictment and the denial of his motion for mistrial after a witness mentioned polygraph testing.
STANDARD OF REVIEW	The sufficiency of a charging instrument and the trial court's ruling on a motion to quash an indictment are reviewed de novo. The denial of a motion for mistrial is reviewed for abuse of discretion, and the ruling is upheld if it falls within the zone of reasonable disagreement.
PRECEDENTIAL VALUE	unpublished memorandum opinion; not designated for publication
PARTIES	Marc Edwin Brooks v. The State of Texas

TOPICS

- criminal procedure
- void for vagueness
- double jeopardy
- preservation of error
- evidence

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the indictment's allegation that Brooks caused penetration 'by any means' was unconstitutionally vague and failed to provide sufficient notice to prepare a defense.
2. Whether the alleged vagueness of the indictment exposed Brooks to a double-jeopardy violation.
3. Whether the trial court abused its discretion by denying a mistrial after a witness mentioned polygraph testing during testimony.

HOLDINGS

1. The indictment provided sufficient notice and the statutory phrase 'by any means' was not impermissibly vague. An indictment tracking the applicable statutory language and alleging that the defendant caused penetration 'by any means' adequately described the prohibited conduct; in any event, Brooks received actual notice through discovery materials and the evidence admitted at the motion-to-quash hearing.
2. The double-jeopardy claim was not ripe because Brooks had not been subjected to a subsequent prosecution or multiple punishments under the same circumstances. The trial court therefore did not err in denying the motion to quash on this ground.
3. The trial court did not abuse its discretion in denying a mistrial. The objection was untimely because counsel failed to object to the witness's first mention of polygraph testing. Even assuming preservation, the general reference did not reveal test results or establish that Brooks took a polygraph, the State did not act in bad faith, the trial court struck the later testimony and instructed the jury to disregard it, and the evidence supporting conviction was substantial.

KEY QUOTATIONS

"We conclude that no ordinary person reading the statute would have any doubt as to what type of conduct is prohibited by law." (11)

"After our review of the entire record, we conclude that a jury would have convicted Brooks regardless of McSherry's general comments regarding the fact that polygraph testing is a component of sex offender treatment." (18)

FACTUAL BACKGROUND

Brooks was convicted of aggravated sexual assault of Jane, who was younger than fourteen at the time of the charged conduct. Jane testified that Brooks penetrated her with his fingers in the summer of 1992, and other witnesses described prior sexual-abuse allegations, Brooks's prior community supervision, and related investigations. During trial, a sex-offender-treatment witness mentioned that polygraph testing could be part of treatment; the trial court sustained an objection to a later mention, struck the testimony, and instructed the jury to disregard it.

PROCEDURAL HISTORY

Brooks was indicted in Tarrant County for aggravated sexual assault of a child based on conduct alleged to have occurred in 1992. The trial court denied his motion to quash the indictment, and a jury convicted him and assessed a thirty-two-year sentence. The Thirteenth Court of Appeals, hearing the case on transfer from the Second Court of Appeals, affirmed the trial court's judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Barbernell, 257 S.W.3d 248, 250, 255 (Tex. Crim. App. 2008)
- Kellar v. State, 108 S.W.3d 311, 313 (Tex. 2003)
- State v. Moff, 154 S.W.3d 599, 601 (Tex. Crim. App. 2004)
- Riney v. State, 28 S.W.3d 561, 565 (Tex. Crim. App. 2000)
- State v. Zuniga, 512 S.W.3d 902, 906-07 (Tex. Crim. App. 2017)
- Williams v. State, 685 S.W.3d 110, 115 (Tex. Crim. App. 2024)
- Borders v. State, 654 S.W.3d 202, 205 (Tex. App.—Austin 2022, no pet.)
- Smith v. State, 309 S.W.3d 10, 13-14 (Tex. Crim. App. 2010)
- Lawrence v. State, 240 S.W.3d 912, 915 (Tex. Crim. App. 2007)
- State v. Holcombe, 187 S.W.3d 496, 499 (Tex. Crim. App. 2006)
- Reyna v. State, 168 S.W.3d 173, 177 (Tex. Crim. App. 2005)
- Bigon v. State, 252 S.W.3d 360, 369-70 (Tex. Crim. App. 2008)
- Burks v. State, 876 S.W.2d 877, 889 (Tex. Crim. App. 1994) (en banc)
- Coble v. State, 330 S.W.3d 253, 292 (Tex. Crim. App. 2010)
- Stahmann v. State, 548 S.W.3d 46, 68 (Tex. App.—Corpus Christi–Edinburg 2018), aff'd, 602 S.W.3d 573 (Tex. Crim. App. 2020)
- Hawkins v. State, 135 S.W.3d 72, 77-78 (Tex. Crim. App. 2004)
- Ladd v. State, 3 S.W.3d 547, 567 (Tex. Crim. App. 1999)
- Martines v. State, 371 S.W.3d 232, 250-52 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
- Tennard v. State, 802 S.W.2d 678, 683-84 (Tex. Crim. App. 1990)
- Jasso v. State, 112 S.W.3d 805, 813-14 (Tex. App.—Houston [14th Dist.] 2003, pet. ref'd)
- Buckley v. State, 46 S.W.3d 333, 337 (Tex. App.—Texarkana 2001, pet. dismiss'd)
- Bekendam v. State, 441 S.W.3d 295, 299 (Tex. Crim. App. 2014)
- Null v. State, 690 S.W.3d 305, 318 (Tex. Crim. App. 2024)
- Williams v. State, 662 S.W.3d 452, 460 (Tex. Crim. App. 2021)
- Garza v. State, 126 S.W.3d 79, 83-84 (Tex. Crim. App. 2004)
- Young v. State, 137 S.W.3d 65, 70 (Tex. Crim. App. 2004)
- Green v. State, 713 S.W.3d 865, 885 (Tex. Crim. App. 2025)

- Garcia v. State, 667 S.W.3d 756, 762 (Tex. Crim. App. 2023)
- Garcia v. State, 907 S.W.2d 635, 639 (Tex. App.—Corpus Christi—Edinburg 1995), aff'd, 981 S.W.2d 683 (Tex. Crim. App. 1998)

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