

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

Carolyn Rodriguez v. The State of Texas

No. 02-25-00258-CR (Tex. App.—Fort Worth Apr. 23, 2026) (mem. op.) · No. 02-25-00258-CR · Decided April 23, 2026

SUMMARY

The Texas Court of Appeals for the Second District at Fort Worth affirmed Carolyn Rodriguez’s conviction for hindering an official proceeding by disorderly conduct under Texas Penal Code Section 38.13. The court rejected her facial and as-applied constitutional challenges, sufficiency challenge, complaint concerning the quashing of a subpoena, and jury-charge complaints.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Elizabeth Kerr; Birdwell; Wallach
JURISDICTION	Court of Appeals for the Second Appellate District of Texas at Fort Worth
DECIDED	April 23, 2026
DOCKET	02-25-00258-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rodriguez appealed her jury conviction for hindering an official proceeding by disorderly conduct, challenging the constitutionality of Texas Penal Code section 38.13, the quashing of a defense subpoena, jury-charge rulings, and the sufficiency of the evidence.
STANDARD OF REVIEW	Constitutional challenges are reviewed de novo. Legal sufficiency is reviewed under Jackson v. Virginia by viewing the evidence in the light most favorable to the verdict and asking whether any rational factfinder could have found the essential elements beyond a reasonable doubt. A ruling quashing a subpoena is reviewed for abuse of discretion. Jury-charge error is reviewed by first determining whether error occurred and, if so, applying the Almanza harm standard based on preservation.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Carolyn Rodriguez v. The State of Texas

TOPICS

criminal procedure

appellate procedure

first amendment

free speech

evidence

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether Texas Penal Code section 38.13 is facially unconstitutional as vague or overbroad under the First Amendment and the Texas Constitution.
2. Whether section 38.13 was unconstitutionally applied to Rodriguez because her prosecution was based on the content of her speech rather than disruptive conduct.
3. Whether the evidence was legally sufficient to prove that Rodriguez hindered an official proceeding.
4. Whether the trial court abused its discretion by quashing the subpoena compelling County Judge Tim O'Hare to testify.
5. Whether the jury charge erroneously failed to tailor the culpable-mental-state definitions to the offense.
6. Whether the jury charge permitted a nonunanimous verdict by submitting intentional and reckless hindering in a single application paragraph.
7. Whether the trial court erred by refusing to give a special freedom-of-speech instruction.
8. Whether any jury-charge errors cumulatively required reversal.

HOLDINGS

1. Section 38.13 regulates conduct that is not inherently expressive, rather than speech, and therefore does not implicate the First Amendment facially. The statute is rationally related to the legitimate governmental interest in allowing official proceedings to proceed in an orderly manner and is not facially unconstitutional.
2. Section 38.13 was not unconstitutionally applied to Rodriguez because the evidence showed that she was arrested for loud and disruptive conduct that hindered the proceeding, not for the content of her speech.
3. The evidence was legally sufficient to support Rodriguez's conviction because a rational factfinder could find that her yelling hindered the Commissioners Court proceeding.
4. The trial court did not abuse its discretion by quashing the subpoena for Judge O'Hare because Rodriguez failed to make a plausible showing that his testimony would be material and favorable, and the subpoena was not properly served.
5. The jury charge was erroneous because it omitted result-of-conduct language from the definitions of intentionally and recklessly, but the error caused no actual harm and therefore did not warrant reversal.

6. The trial court did not err by submitting intentional and reckless hindering in a single application paragraph because the two subsections of section 38.13 describe alternative mens rea theories of one offense, not separate criminal acts requiring separate unanimous verdicts.
7. The trial court did not err by refusing Rodriguez's requested freedom-of-speech instruction because it was a nonstatutory instruction not grounded in the Penal Code, covered by the general charge, and focused the jury on a particular type of evidence.

KEY QUOTATIONS

"Because Section 38.13 regulates conduct that is not inherently expressive, it does not implicate the First Amendment." (at 7)

"Because the two subsections of Section 38.13 do not constitute separate offenses and because a jury is not required to reach a unanimous verdict on the specific alternative mental states of a single offense as long as it agrees that the State has proved the mens rea element beyond a reasonable doubt, the trial court did not err by including a single application paragraph in the charge addressing both the intentional and the reckless hindering of an official proceeding." (at 29)

FACTUAL BACKGROUND

Rodriguez attended a Tarrant County Commissioners Court meeting and spoke during the public-comments period about the court's rules of decorum and the use of profanity. When deputies began escorting her from the meeting after she listed examples of profanity, she yelled "F*ck you!" and continued yelling profanities in the lobby. Deputy testimony and an audiovisual recording indicated that her yelling was loud enough to interfere with the next speaker and hinder continuation of the meeting.

PROCEDURAL HISTORY

Rodriguez was charged in County Criminal Court No. 9 of Tarrant County, pleaded not guilty, and was convicted by a jury. The jury assessed 270 days' confinement and a \$2,000 fine; the trial court suspended the sentence and placed Rodriguez on eighteen months' community supervision. The court of appeals overruled all four appellate issues and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Valk v. Copper Creek Distribs.*, No. 24-0516, 2026 WL 1041612, at *3 (Tex. Apr. 17, 2026)
- *Chaney v. State*, 314 S.W.3d 561, 565 n.6 (Tex. App.—Amarillo 2010, pet. ref'd)
- *Bradleys' Elec. v. Cigna Lloyds Ins. Co.*, 995 S.W.2d 675, 677 (Tex. 1999)
- *Griswold v. State*, 673 S.W.3d 423, 430 (Tex. App.—Dallas 2023, no pet.)
- *Owens v. State*, 135 S.W.3d 302, 305 (Tex. App.—Houston [14th Dist.] 2004, no pet.)
- *Goyzueta v. State*, 266 S.W.3d 126, 130 (Tex. App.—Fort Worth 2008, no pet.)

- Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 494 (1982)
- Owens v. State, 728 S.W.3d 155, 160, 163 (Tex. Crim. App. 2025)
- R.A.V. v. City of St. Paul, 505 U.S. 377, 382 (1992)
- Ex parte Barton, 662 S.W.3d 876, 881, 884-85 (Tex. Crim. App. 2022)
- Ex parte Sanders, 663 S.W.3d 197, 215-16 (Tex. Crim. App. 2022)
- Scott v. State, 322 S.W.3d 662, 666 n.4, 669 (Tex. Crim. App. 2010)
- Wilson v. State, 448 S.W.3d 418, 423 (Tex. Crim. App. 2014)
- Minnesota v. Clover Leaf Creamery Co., 449 U.S. 456, 461 (1981)
- Valdesgalvan v. State, 664 S.W.3d 407, 413 (Tex. App.—Fort Worth 2023, no pet.)
- Thomas v. State, 651 S.W.3d 102, 108 (Tex. App.—Houston [14th Dist.] 2021, pet. ref'd)
- Shanker v. Helsby, 676 F.2d 31, 34 (2d Cir. 1982)
- State ex rel. Lykos v. Fine, 330 S.W.3d 904, 910 (Tex. Crim. App. 2011)
- Schlittler v. State, 488 S.W.3d 306, 313 (Tex. Crim. App. 2016)
- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- Queeman v. State, 520 S.W.3d 616, 622 (Tex. Crim. App. 2017)
- Stephenson v. State, 673 S.W.3d 370, 384 (Tex. App.—Fort Worth 2023, pet. ref'd)
- Harrell v. State, 620 S.W.3d 910, 914 (Tex. Crim. App. 2021)
- Martin v. State, 635 S.W.3d 672, 679 (Tex. Crim. App. 2021)
- Braughton v. State, 569 S.W.3d 592, 608 (Tex. Crim. App. 2018)
- Villa v. State, 514 S.W.3d 227, 232 (Tex. Crim. App. 2017)
- Hammack v. State, 622 S.W.3d 910, 914 (Tex. Crim. App. 2021)
- Febus v. State, 542 S.W.3d 568, 572 (Tex. Crim. App. 2018)
- Curlee v. State, 620 S.W.3d 767, 778 (Tex. Crim. App. 2021)
- Rabb v. State, 434 S.W.3d 613, 616 (Tex. Crim. App. 2014)
- Matchett v. State, 941 S.W.2d 922, 936 (Tex. Crim. App. 1996)
- Emenhiser v. State, 196 S.W.3d 915, 921 (Tex. App.—Fort Worth 2006, pet. ref'd)
- Coleman v. State, 966 S.W.2d 525, 527-28 (Tex. Crim. App. 1998) (op. on reh'g)
- United States v. Valenzuela-Bernal, 458 U.S. 858, 869-71 (1982)
- Drew v. State, 743 S.W.2d 207, 225 n.11 (Tex. Crim. App. 1987)
- Henley v. State, 493 S.W.3d 77, 83 (Tex. Crim. App. 2016)
- Taylor v. State, 268 S.W.3d 571, 579 (Tex. Crim. App. 2008)
- Herrera v. State, Nos. 05-15-00119-CR through 05-15-00121-CR, 2016 WL 3098699, at *8 (Tex. App.—Dallas May 23, 2016, no pet.) (mem. op.)
- Kirsch v. State, 357 S.W.3d 645, 649 (Tex. Crim. App. 2012)
- Wooten v. State, 400 S.W.3d 601, 606 (Tex. Crim. App. 2013)
- Ngo v. State, 175 S.W.3d 738, 744-47 (Tex. Crim. App. 2005)
- Almanza v. State, 686 S.W.2d 157, 171 (Tex. Crim. App. 1985) (op. on reh'g)

- Ouellette v. State, 353 S.W.3d 868, 870 (Tex. Crim. App. 2011)
- Watson v. State, 548 S.W.2d 676, 679 n.3 (Tex. Crim. App. 1977)
- Cook v. State, 884 S.W.2d 485, 487 (Tex. Crim. App. 1994)
- McQueen v. State, 781 S.W.2d 600, 603 (Tex. Crim. App. 1989)
- Loving v. State, 401 S.W.3d 642, 647 (Tex. Crim. App. 2013)
- Reeves v. State, 420 S.W.3d 812, 816 (Tex. Crim. App. 2013)
- Mosley v. State, 686 S.W.2d 180, 182 (Tex. Crim. App. 1985)
- Fuller v. State, 819 S.W.2d 254, 257 (Tex. App.—Austin 1991, pet. ref'd)
- Hunt v. State, No. 02-23-00259-CR, 2024 WL 4562494, at *4 (Tex. App.—Fort Worth Oct. 24, 2024, pet. ref'd) (mem. op.)
- Johnson v. State, No. 02-24-00439-CR, 2025 WL 3301068, at *4 (Tex. App.—Fort Worth Nov. 26, 2025, pet. ref'd) (mem. op.)
- Jordan v. State, 593 S.W.3d 340, 347 (Tex. Crim. App. 2020)
- Jefferson v. State, 189 S.W.3d 305, 311 (Tex. Crim. App. 2006)
- State v. Johnson, 627 N.W.2d 455, 459-60 (Wis. 2001)
- Davis v. State, 268 S.W.3d 683, 711 (Tex. App.—Fort Worth 2008, pet. ref'd)
- Martinez v. State, 129 S.W.3d 101, 103 (Tex. Crim. App. 2004)
- De Los Santos v. State, 219 S.W.3d 71, 76 (Tex. App.—San Antonio 2006, no pet.)
- Giesberg v. State, 984 S.W.2d 245, 250 (Tex. Crim. App. 1998)
- Walters v. State, 247 S.W.3d 204, 214 (Tex. Crim. App. 2007)
- Abel v. State, No. 02-18-00051-CR, 2020 WL 5048078, at *36 (Tex. App.—Fort Worth Aug. 27, 2020, no pet.) (per curiam) (mem. op.)

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