

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Victor Barrera Morones v. The State of Texas

No. 03-24-00581-CR · No. 03-24-00581-CR · Decided January 15, 2026

SUMMARY

The Texas Court of Appeals, Third District, considers Victor Barrera Morones’s appeal from his conviction for indecency with a child by contact and a thirty-year sentence. The court addresses claims of ineffective assistance of counsel and improper testimony concerning the victim’s truthfulness, concluding that no actual conflict of interest was shown and affirming the trial court’s judgment.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Karin Crump; Chief Justice Byrne; Justice Crump; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District, Austin
DECIDED	January 15, 2026
DOCKET	03-24-00581-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a jury conviction for indecency with a child by contact and a thirty-year prison sentence.
STANDARD OF REVIEW	Ineffective-assistance claims are reviewed under Strickland v. Washington unless an actual conflict of interest is shown; evidentiary rulings are reviewed for abuse of discretion. Preservation claims are reviewed under Texas Rule of Appellate Procedure 33.1.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Victor Barrera Morones v. The State of Texas

TOPICS

- ineffective assistance
- criminal procedure
- appellate procedure
- preservation of error
- expert testimony

PRACTICE AREAS

- criminal procedure
- criminal appellate procedure
- ineffective assistance of counsel
- evidence

QUESTIONS PRESENTED

1. Whether defense counsel's disclosure of plea negotiations and trial strategy created an actual conflict of interest requiring review under *Cuyler v. Sullivan* rather than *Strickland v. Washington*.
2. Whether Morones established ineffective assistance of counsel based on counsel's disclosures concerning the plea offer, prior convictions, and anticipated testimony.
3. Whether Morones preserved his challenge to the counselor's testimony as impermissible expert testimony concerning the victim's truthfulness.
4. Whether, if preserved, the trial court abused its discretion by admitting the counselor's general testimony about trauma responses and memory.

HOLDINGS

1. The record did not establish an actual conflict of interest because counsel was not shown to be actively representing conflicting interests; therefore, Morones's ineffective-assistance claim is governed by *Strickland* rather than *Cuyler*.
2. Morones failed to establish ineffective assistance because he did not show prejudice resulting from counsel's disclosures or strategy discussions.
3. Morones failed to preserve his appellate complaint that the counselor impermissibly testified about the victim's truthfulness because his trial objections concerned hearsay, assumed facts, scientific foundation, repressed memories, and relevance rather than credibility testimony under Rule 702.
4. Even if preserved, the challenge would fail because the trial court did not abuse its discretion by admitting the counselor's general testimony about trauma responses, memory, and children's behavior when the counselor did not opine that the victim was truthful.

KEY QUOTATIONS

"The fact that she was less than artful in executing her personal interest—by eliciting unnecessary, and potentially damaging, information before the trier of fact—did not create an actual conflict of interest where none otherwise existed." (12)

"Neither expert witnesses nor lay witnesses may testify to the truthfulness of a witness's testimony." (20)

FACTUAL BACKGROUND

Morones was convicted of indecency with a child by contact after the State presented testimony from the victim, investigating officers, a restaurant-related witness, a forensic interviewer, and a children's advocacy center counselor. Morones testified during the guilt-innocence phase, and the jury later found two alleged prior felony convictions true and assessed thirty years' imprisonment. Before trial, defense counsel discussed a rejected plea offer and disclosed aspects of the defense strategy, including Morones's possible testimony and the anticipated use of prior convictions. At trial, a counselor gave general testimony about trauma responses and children's ability to recall and discuss traumatic events, while disclaiming any opinion on the victim's truthfulness.

PROCEDURAL HISTORY

Morones was charged in the 33rd District Court of Burnet County with indecency with a child by contact, with prior felony convictions alleged for punishment enhancement. A jury found him guilty, found the enhancements true, and assessed thirty years' imprisonment. The trial court rendered judgment in accordance with the verdict, and Morones appealed, asserting ineffective assistance of counsel and improper admission of testimony concerning the victim's truthfulness. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- Cuyler v. Sullivan, 446 U.S. 335 (1980)
- Monreal v. State, 947 S.W.2d 559 (Tex. Crim. App. 1997)
- Ex parte McCormick, 645 S.W.2d 801 (Tex. Crim. App. 1983)
- Orgo v. State, 557 S.W.3d 858 (Tex. App.—Houston [14th Dist.] 2018, no pet.)
- Houston v. State, No. 03-24-00557-CR, 2026 WL 63108 (Tex. App.—Austin Jan. 8, 2026, no pet. h.)
- Thompson v. State, 94 S.W.3d 11 (Tex. App.—Houston [14th Dist.] 2002, pet. ref'd)
- Odelugo v. State, 443 S.W.3d 131 (Tex. Crim. App. 2014)
- Acosta v. State, 233 S.W.3d 349 (Tex. Crim. App. 2007)
- Mitchell v. State, 989 S.W.2d 747 (Tex. Crim. App. 1999)
- James v. State, 763 S.W.2d 776 (Tex. Crim. App. 1989)
- Goody v. State, 433 S.W.3d 74 (Tex. App.—Houston [1st Dist.] 2014, pet. ref'd)
- Routier v. State, 112 S.W.3d 554 (Tex. Crim. App. 2003)
- Ramirez v. State, 13 S.W.3d 482 (Tex. App.—Corpus Christi-Edinburg 2000, pet. dism'd)
- Miller v. State, 548 S.W.3d 497 (Tex. Crim. App. 2018)
- Ex parte Scott, 541 S.W.3d 104 (Tex. Crim. App. 2017)
- Burch v. State, 541 S.W.3d 816 (Tex. Crim. App. 2017)
- Garcia v. State, 57 S.W.3d 436 (Tex. Crim. App. 2001)
- Thompson v. State, 9 S.W.3d 808 (Tex. Crim. App. 1999)
- Ex parte Amezcuita, 223 S.W.3d 363 (Tex. Crim. App. 2006)
- Ex parte Chandler, 182 S.W.3d 350 (Tex. Crim. App. 2005)
- Perez v. State, 310 S.W.3d 890 (Tex. Crim. App. 2010)
- Goodspeed v. State, 187 S.W.3d 390 (Tex. Crim. App. 2005)
- Prine v. State, 537 S.W.3d 113 (Tex. Crim. App. 2017)
- Shamim v. State, 443 S.W.3d 316 (Tex. App.—Houston [1st Dist.] 2014, pet. ref'd)
- Navejar v. State, 730 S.W.2d 121 (Tex. App.—Corpus Christi-Edinburg 1987, pet. ref'd)
- Darcy v. State, 488 S.W.3d 325 (Tex. Crim. App. 2016)

- Resendez v. State, 306 S.W.3d 308 (Tex. Crim. App. 2009)
- Lankston v. State, 827 S.W.2d 907 (Tex. Crim. App. 1992)
- Pena v. State, 285 S.W.3d 459 (Tex. Crim. App. 2009)
- Clark v. State, 365 S.W.3d 333 (Tex. Crim. App. 2012)
- Lovill v. State, 319 S.W.3d 687 (Tex. Crim. App. 2009)
- Blackshear v. State, 385 S.W.3d 589 (Tex. Crim. App. 2012)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)
- Kelly v. State, Kelly v. State, 824 S.W.2d 568 (Tex. Crim. App. 1992)
- Tillman v. State, 354 S.W.3d 425 (Tex. Crim. App. 2011)
- Lopez v. State, 86 S.W.3d 228 (Tex. Crim. App. 2002)
- State v. Mechler, 153 S.W.3d 435 (Tex. Crim. App. 2005)
- Carrasco v. State, 154 S.W.3d 127 (Tex. Crim. App. 2005)
- Khoshayand v. State, 179 S.W.3d 779 (Tex. App.—Dallas 2005, no pet.)
- Tharp v. State, 714 S.W.3d 118 (Tex. App.—Austin 2024, no pet.)
- Schutz v. State, 957 S.W.2d 52 (Tex. Crim. App. 1997)
- Yount v. State, 872 S.W.2d 706 (Tex. Crim. App. 1993)
- Brewer v. State, 370 S.W.3d 471 (Tex. App.—Amarillo 2012, no pet.)
- DeLong v. State, Nos. 02-04-00410—00411-CR, 2006 WL 3334061 (Tex. App.—Fort Worth Nov. 16, 2006, pet. ref'd)
- Christ v. State, 480 S.W.2d 394 (Tex. Crim. App. 1972)
- Cantu v. State, 678 S.W.3d 331 (Tex. App.—San Antonio 2023, no pet.)
- Auld v. State, 652 S.W.3d 95 (Tex. App.—Texarkana 2022, no pet.)
- Franco v. State, 339 S.W.3d 793 (Tex. App.—Amarillo 2011, no pet.)
- Reyes v. State, 267 S.W.3d 268 (Tex. App.—Corpus Christi-Edinburg 2008, pet. ref'd)
- Chisum v. State, 988 S.W.2d 244 (Tex. App.—Texarkana 1998, pet. ref'd)
- Brantley v. State, 606 S.W.3d 328 (Tex. App.—Houston [1st Dist.] 2020, no pet.)
- Burton v. Prince, 577 S.W.3d 280 (Tex. App.—Houston [14th Dist.] 2019, no pet.)
- Dudley v. State, 58 S.W.3d 296 (Tex. App.—Beaumont 2001, no pet.)

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