

COURT OF APPEALS OF TEXAS, TENTH APPELLATE DISTRICT AT WACO

Daniel Saucedo v. The State of Texas

No. 10-25-00093-CR · No. 10-25-00093-CR · Decided May 7, 2026

SUMMARY

The Texas Tenth Court of Appeals affirmed Daniel Saucedo’s first-degree aggravated-assault conviction and forty-five-year sentence as modified. The court held that the trial court properly excluded defense exhibits depicting writings because the writings were not authenticated. It modified the bill of costs to remove a \$250 DNA fee and modified the judgment to correct the statutory offense reference and remove inaccurate language concerning a contested guilt-innocence trial.

CASE DETAILS

COURT	Court of Appeals of Texas, Tenth Appellate District at Waco
WRITING FOR THE COURT	Justice Steve Smith; Chief Justice Johnson; Justice Harris
JURISDICTION	Texas Court of Appeals, Tenth Appellate District
DECIDED	May 7, 2026
DOCKET	10-25-00093-CR
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from a judgment of conviction and punishment entered by the 54th District Court of McLennan County after Saucedo entered an open guilty plea to first-degree aggravated assault, elected jury assessment of punishment, and pleaded true to a felony enhancement paragraph.
STANDARD OF REVIEW	The exclusion of evidence is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Daniel Saucedo v. The State of Texas

TOPICS

- authentication
- evidence
- appellate procedure
- criminal procedure
- standard of review

PRACTICE AREAS

- Texas criminal procedure
- evidence
- criminal appeals

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by excluding Defense Exhibits 16 through 21 as unauthenticated hearsay.
2. Whether the bill of costs should be modified to delete the \$250 DNA fee.
3. Whether the judgment should be modified to state the correct statutory offense provision.
4. Whether the judgment should replace the jury's guilty verdict with "N/A" because Saucedo pleaded guilty.
5. Whether the judgment should be modified to remove language incorrectly describing a contested jury trial on guilt-innocence.

HOLDINGS

1. The trial court did not abuse its discretion by excluding the photographs because the crime-scene technician authenticated only the photographs, not the writings depicted in them. The exhibits lacked evidence establishing who authored the writings or when they were created.
2. The bill of costs had to be modified to delete the \$250 DNA fee because the statute authorizing that fee had been repealed before the offense occurred.
3. The judgment had to be modified to replace the burglary statute citation with Texas Penal Code section 22.02(b)(1), the provision applicable to Saucedo's aggravated-assault conviction.
4. The court properly retained the word "guilty" in the jury-verdict field because the jury was instructed to and did find Saucedo guilty, notwithstanding his guilty plea.
5. The judgment had to be modified to strike language stating that the jury heard evidence and determined Saucedo's guilt or innocence because the record reflected a guilty plea rather than a contested guilt-innocence trial.

KEY QUOTATIONS

"To authenticate an item of evidence, the proponent must produce sufficient evidence to support a finding that the item is what the proponent claims it is." (3)

"We find that the trial court did not abuse its discretion in excluding Defendant's Exhibits 16 through 21 because they were not authenticated." (4)

"The judgment is affirmed as modified." (6)

FACTUAL BACKGROUND

Saucedo entered an open guilty plea to first-degree aggravated assault arising from his stabbing the mother of his children eleven times with a knife. He elected to have a jury assess punishment, and the jury assessed forty-five years in prison after he pleaded true to one felony enhancement paragraph. During cross-examination of a crime-scene technician, Saucedo offered photographs of a dry-erase board and an unsigned, undated handwritten letter found in his bedroom, asserting that the writings showed his then-existing state of mind. The technician

authenticated the photographs but did not identify the authorship or timing of the writings, and the trial court excluded the exhibits.

PROCEDURAL HISTORY

Saucedo was convicted in the 54th District Court of McLennan County, Texas, and sentenced by a jury to forty-five years in prison. On appeal, he challenged the exclusion of six defense exhibits and requested corrections to the bill of costs and judgment. The court overruled the evidentiary issues and one requested judgment modification, sustained the remaining modification issues, modified the bill of costs and judgment, and affirmed as modified.

DISPOSITION

other

CASES CITED

- Tillman v. State, 354 S.W.3d 425, 435 (Tex. Crim. App. 2011)
- Tienda v. State, 358 S.W.3d 633, 638 (Tex. Crim. App. 2012)

OPINION

PER CURIAM.

Court of Appeals Tenth Appellate District of Texas 10-25-00093-CR Daniel Saucedo, Appellant v. The State of Texas, Appellee On appeal from the 54th District Court of McLennan County, Texas Judge Susan N. Kelly, presiding Trial Court Cause No. 2023-1609-C2 JUSTICE SMITH delivered the opinion of the Court. MEMORANDUM OPINION Daniel Saucedo entered an open plea of guilty to first-degree aggravated assault by stabbing the mother of his children eleven times with a knife.

See TEX. PENAL CODE ANN. § 22.02. He elected for a jury to assess punishment and pled “true” to one felony enhancement paragraph. After hearing the evidence, the jury assessed Saucedo’s punishment at forty-five years in prison.

In six issues on appeal, Saucedo claims that the trial court reversibly erred by excluding six defense exhibits and contends that the judgment and bill of costs contain nonreversible errors that require modification.

We modify the judgment and bill of costs as described below and affirm the judgment as modified. Defense Exhibits In his first and second issues, Saucedo contends that the trial court erred in excluding Defendant’s Exhibits 16 through 21.

We disagree. STANDARD OF REVIEW We review a trial court’s exclusion of evidence for an abuse of discretion. Tillman v. State, 354 S.W.3d 425, 435 (Tex. Crim. App. 2011). RELEVANT

FACTS During Saucedo's cross-examination of the Waco Police Department crime scene technician, he offered Defense Exhibits 16 through 21. Defense Exhibits 16 and 17 were photographs of a dry erase board with writing on it.

Defense Exhibits 18 through 21 were photographs of a handwritten letter addressed "To You." Both the letter and the dry erase board were located in Saucedo's bedroom, but neither of the writings were dated or signed.

The State objected to the exhibits as hearsay. Defense counsel responded that the exhibits were not being offered to prove the truth of the matters asserted in the writings; rather, they were being offered to demonstrate Daniel Saucedo v. The State of Texas Page 2 Saucedo's then-existing state of mind under Rule of Evidence 803(3).¹ See TEX. R. EVID. 803(3).

After the trial court expressed concern over defense counsel's ability to authenticate the exhibits through the crime scene technician, defense counsel attempted to lay the predicate to establish their admissibility.

The crime scene technician confirmed the accuracy of the photographs and that she took all six photographs in Saucedo's bedroom. The State then re-urged its hearsay objection and argued that the crime scene technician could not lay the necessary foundation to demonstrate that the writings showed Saucedo's state of mind. Specifically, the State noted that the crime scene technician did not identify the handwriting in the exhibits as Saucedo's handwriting or otherwise attribute the writings to Saucedo, pointed out that the writings were not dated, and asserted that the witness had no personal knowledge of the matters discussed in the writings.

The trial court sustained the objection. ANALYSIS To authenticate an item of evidence, the proponent must produce sufficient evidence to support a finding that the item is what the proponent claims it is. Id. R. 901(a). "Evidence may be authenticated in a number of ways, including by direct testimony from a witness with personal knowledge, 1 At trial, Saucedo also proffered the writings as statements against interest under Rule of Evidence 803(24).

See TEX. R. EVID. 803(24). He does not advance this argument on appeal. Daniel Saucedo v. The State of Texas Page 3 by comparison with other authenticated evidence, or by circumstantial evidence." *Tienda v. State*, 358 S.W.3d 633, 638 (Tex. Crim. App. 2012).

On appeal, Saucedo asserts that the exhibits were authenticated by the crime scene technician because she "was a witness with knowledge of the photographs" and testified that she took the photographs in Saucedo's bedroom.

However, at trial, Saucedo claimed that Defense Exhibits 16 through 21 accurately depicted writings authored by him that evidenced "his state of mind and what was going on with him[.]" Saucedo's claim, therefore, required evidence that the writings were authored by a specific person

during a relevant time frame. See TEX. R. EVID. 803(3). Though the crime scene technician authenticated the exhibits as photographs she took, she did not authenticate the writings within the photographs.

She provided no evidence regarding the authorship of the writings or when the writings may have been created. Further, the writings themselves were unsigned and undated. Saucedo points out that from the context, we can ascertain that the letter depicted in Defense Exhibits 18 through 21 was written sometime after the complainant broke his windshield but before the offense occurred on August 29, 2023.² The evidence at trial indicated that the complainant broke Saucedo's windshield in November or December of 2022, some eight or nine months before Saucedo. ² The letter includes the following statement: "I hate that I can have [sic] but that doesn't make it okay for you to shatle [sic] the windshield." Daniel Saucedo v. The State of Texas Page 4 stabbed her.

We find that the trial court did not abuse its discretion in excluding Defendant's Exhibits 16 through 21 because they were not authenticated. Accordingly, we overrule Saucedo's first and second issues. Bill of Costs Modification In his third issue, Saucedo requests that we modify the bill of costs to delete the assessed \$250 DNA Fee.

The State agrees that the fee should be deleted. Former article 102.020 of the Code of Criminal Procedure, the statute requiring assessment of a \$250 DNA fee as court costs in certain criminal cases, was repealed effective January 1, 2020. See Act of May 23, 2019, 86th Leg., R.S., ch. 1352, § 1.19(7), 2019 Tex. Gen. Laws 3982.

The offense in this case occurred after January 1, 2020. Accordingly, we sustain Saucedo's third issue and modify the bill of costs to delete the \$250 DNA fee. Judgment Modifications In his fourth issue, Saucedo requests that we modify the "Statute for Offense" section of the judgment to reflect the proper penal code section for his conviction.

The judgment currently reflects the penal code section for burglary. See TEX. PENAL CODE ANN. § 30.02. The State agrees to the requested Daniel Saucedo v. The State of Texas Page 5 modification. We sustain Saucedo's fourth issue and modify the "Statute for Offense" section of the judgment to reflect section 22.02(b)(1).³ In his fifth issue, Saucedo asks that we delete the word "guilty" from the "Verdict of Jury" field in the judgment and insert "N/A" because he pled guilty to the offense.

The State disagrees, pointing out that the jury found Saucedo guilty. The jury charge includes an instruction by the trial court that Saucedo's "plea of guilty is received by the Court, and you are instructed to find the Defendant guilty of the offense of Aggravated Assault, as alleged in the indictment." The verdict form in the jury charge also includes the following finding by the jury, as instructed: "We, the Jury, find the Defendant, Daniel Saucedo, guilty of the offense of Aggravated Assault, as alleged in the indictment[.]" We agree with the State and overrule Saucedo's fifth issue.

In his sixth issue, Saucedo asks us to modify the judgment to delete the following language on page two that incorrectly reflects there was a contested jury trial on guilt-innocence: The jury heard the evidence submitted and argument of counsel.

The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any. 3 Saucedo asks that the judgment reflect section 22.02(b)(1)(A); however, under the version of the statute in effect at the time the offense was committed, the correct reference is section 22.02(b)(1).

See Acts 2021, 87th Leg., ch. 461 (H.B. 1306), eff. Sept. 1, 2021. Daniel Saucedo v. The State of Texas Page 6 The State agrees that this language should be stricken. We sustain Saucedo's sixth issue and modify the judgment by striking the aforementioned language. Conclusion We sustain Saucedo's third, fourth, and sixth issues, and overrule his first, second, and fifth issues.

The bill of costs is modified to delete the \$250 DNA Fee, and the judgment is modified to reflect the correct statute of offense and to delete the aforementioned incorrect language regarding the trial proceedings. The judgment is affirmed as modified. STEVE SMITH Justice OPINION DELIVERED and FILED: May 7, 2026 Before Chief Justice Johnson, Justice Smith, and Justice Harris Affirmed as modified Do not publish CRPM Daniel Saucedo v. The State of Texas Page 7