

COURT OF APPEALS OF THE EIGHTH DISTRICT OF TEXAS, EL PASO

The State of Texas v. Luis Fernando Ortiz

No. 08-24-00177-CR · No. 08-24-00177-CR · Decided February 18, 2026

SUMMARY

The Eighth Court of Appeals of Texas affirmed the dismissal of a misdemeanor indictment against Luis Fernando Ortiz after concluding that the case was not properly transferred from the district court to the county court and that the county court’s jurisdiction was not properly invoked. The court denied Ortiz’s motions for sanctions against the State and individual prosecutors. Justice Soto filed a concurring opinion explaining that, although the court possesses inherent authority to sanction prosecutors for egregious bad-faith conduct, the record did not warrant sanctions in this case.

CASE DETAILS

COURT	Court of Appeals of the Eighth District of Texas, El Paso
WRITING FOR THE COURT	Per curiam; Lisa J. Soto, Justice, filed a concurring opinion regarding sanctions; Palafox, J.; Lisa J. Soto, J.; Barajas, C.J. (Ret.), sitting by assignment
JURISDICTION	Court of Appeals of the Eighth District of Texas, El Paso
DECIDED	February 18, 2026
DOCKET	08-24-00177-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the County Court at Law No. 7's order dismissing a misdemeanor indictment for lack of jurisdiction. Ortiz filed motions seeking sanctions against the State and individual prosecutors. The appellate court affirmed the dismissal and denied sanctions.
STANDARD OF REVIEW	Dismissal of an indictment is reviewed under a bifurcated standard: findings of fact supported by the record and mixed questions depending on witness credibility receive almost total deference, while pure legal questions and mixed questions not dependent on credibility are reviewed de novo. Because the dismissal here depended exclusively on legal questions and mixed questions not relying on witness credibility, the court applied de novo review.
PRECEDENTIAL VALUE	published
PARTIES	The State of Texas v. Luis Fernando Ortiz

TOPICS

criminal procedure

appellate procedure

appellate jurisdiction

remedies

standard of review

PRACTICE AREAS

Texas criminal procedure

appellate procedure

criminal jurisdiction

indictment transfer

attorney sanctions

QUESTIONS PRESENTED

1. Whether the district court's certification and transfer order, together with the true-bill list and indictment, properly transferred Ortiz's indicted misdemeanor case to the county court and invoked the county court's jurisdiction.
2. Whether the county court should have transferred the case back to the district court rather than dismissing it when the transfer was defective.
3. Whether Ortiz established grounds for sanctions, dismissal with prejudice, or attorney's fees based on the State's conduct in the trial court and on appeal.

HOLDINGS

1. The one-page transfer order did not properly transfer Ortiz's case to the county court or invoke its jurisdiction because it did not identify Ortiz's case by a district-court cause number, file number, or other sufficient description, and the true-bill list did not function as a valid transfer order.
2. Dismissal was the proper remedy because the county court never acquired jurisdiction over the case, and no statute authorized it to transfer the case back to the district court under these circumstances.
3. Ortiz failed to establish a legal basis for sanctions, dismissal with prejudice, or attorney's fees against the State or individual prosecutors.

KEY QUOTATIONS

"For the reasons described below, we conclude this indicted misdemeanor case was not properly transferred from a district court to the county court, the county court's jurisdiction was not properly invoked, and the county court properly dismissed the case." (at 2)

"The transfer order is "essential to the jurisdiction of the" county court." (at 18-19)

"We disagree and conclude, as we did in Barrera, that dismissal is the proper remedy." (at 30-31)

"Accordingly, we conclude that the county court lacked jurisdiction to "transfer" Ortiz's case to the district court and that dismissal of his case was therefore the proper remedy." (at 33)

"An attorney's conduct must be egregious to warrant sanctions" (concurrence at 2)

FACTUAL BACKGROUND

On May 21, 2024, an El Paso County grand jury returned an indictment charging Ortiz with the Class B misdemeanor of participating in a riot. A district judge signed a one-page certification and transfer order

referring to an attached eight-page charging-instrument report, but the evidence established that the order was received by the county clerk without an attachment and that no district-court cause number identified Ortiz's case. County clerks later added a true-bill list to the files after the county court's jurisdiction hearing, without court authorization or notice to the defense. The county court dismissed the indictment, and the appellate court concluded that the record did not establish a valid transfer or invocation of county-court jurisdiction.

PROCEDURAL HISTORY

An El Paso County grand jury returned an indictment charging Ortiz with participating in a riot, a Class B misdemeanor. The County Court at Law No. 7 dismissed the indictment after determining that the district court's transfer order did not properly transfer the case or invoke the county court's jurisdiction. The appellate court abated the appeal for an evidentiary hearing concerning the accuracy of the clerk's record, considered the resulting findings, affirmed the dismissal, and denied Ortiz's sanctions motions.

DISPOSITION

affirmed

CASES CITED

- State v. Krizan-Wilson, 354 S.W.3d 808, 815 (Tex. Crim. App. 2011)
- State v. Moff, 154 S.W.3d 599, 601 (Tex. Crim. App. 2004)
- State v. Dunbar, 297 S.W.3d 777, 780 (Tex. Crim. App. 2009)
- Dears v. State, 154 S.W.3d 610, 612 (Tex. Crim. App. 2005)
- State v. Barrera, 722 S.W.3d 894, 905-16 (Tex. App.—El Paso 2025, pet. filed)
- Jenkins v. State, 592 S.W.3d 894, 898 (Tex. Crim. App. 2019)
- Fairfield v. State, 610 S.W.2d 771, 779 (Tex. Crim. App. 1981)
- Ex parte Moss, 446 S.W.3d 786, 788 (Tex. Crim. App. 2014)
- Trejo v. State, 280 S.W.3d 258, 260 (Tex. Crim. App. 2009)
- Ex parte Caldwell, 383 S.W.2d 587, 589 (Tex. Crim. App. 1964)
- State v. Olsen, 360 S.W.2d 398, 400 (Tex. 1962), overruled on other grounds by Jackson v. State, 548 S.W.2d 685, 690 n.1 (Tex. Crim. App. 1977)
- Garcia v. Dial, 596 S.W.2d 524, 527-29 (Tex. Crim. App. 1980)
- Hullum v. State, 415 S.W.2d 192, 195 (Tex. Crim. App. 1966)
- Quarles v. State, 385 S.W.2d 395, 396 (Tex. Crim. App. 1964)
- Coker v. State, 7 Tex. Ct. App. 83, 85 (1879)
- Austin v. State, 70 S.W. 724, 725 (Tex. Crim. App. 1897)
- Hyatt v. State, 135 S.W. 142, 142 (Tex. Crim. App. 1911)
- Lynn v. State, 13 S.W. 867, 868 (Tex. Crim. App. 1890)
- Dittforth v. State, 80 S.W. 628, 628 (Tex. Crim. App. 1904)
- Horton v. State, 20 S.W.2d 1111, 1111 (Tex. Crim. App. 1929) (per curiam)

- Bird v. State, 91 S.W. 791, 791 (Tex. Crim. App. 1906)
- Warner v. Glass, 135 S.W.3d 681, 684 (Tex. 2004)
- Standard Fire Insurance Co. v. LaCoke, 585 S.W.2d 678, 680-81 (Tex. 1979)
- State v. Wachtendorf, 475 S.W.3d 895, 901 (Tex. Crim. App. 2015)
- Stansberry v. State, 239 S.W.3d 260, 261, 263 (Tex. Crim. App. 2007)
- Amador v. State, 221 S.W.3d 666, 676-77 (Tex. Crim. App. 2007)
- Whitehead v. State, 130 S.W.3d 866, 872 (Tex. Crim. App. 2004)
- Solomon v. State, 49 S.W.3d 356, 365 (Tex. Crim. App. 2001)
- Ex parte Jones, 682 S.W.2d 311, 312-13 (Tex. Crim. App. 1984) (en banc)
- Harris v. State, 565 S.W.2d 66, 66-68 (Tex. Crim. App. 1978) (en banc)
- State v. Patrick, 86 S.W.3d 592, 595 (Tex. Crim. App. 2002)
- Wilkins v. State, 5 S.W.2d 770, 770 (Tex. Crim. App. 1928)
- State v. Terrazas, 962 S.W.2d 38, 44 (Tex. Crim. App. 1998) (Keller, P.J., dissenting)
- State v. Johnson, 821 S.W.2d 609, 613-14 (Tex. Crim. App. 1991) (en banc)
- House v. State, 947 S.W.2d 251, 252-53 (Tex. Crim. App. 1997)
- Bell v. State, 90 S.W.3d 301, 305 (Tex. Crim. App. 2002) (en banc)
- Rocha v. State, 16 S.W.3d 1, 20 (Tex. Crim. App. 2000)
- Wyatt v. State, 23 S.W.3d 18, 23 n.5 (Tex. Crim. App. 2000)
- Webster v. Commission for Lawyer Discipline, 704 S.W.3d 478, 489-90, 491, 496-97, 505 (Tex. 2024)
- State v. Gabaldon, No. PD-0149-23, 2025 WL 2588858, at *22 n.20, *26 (Tex. Crim. App. Sept. 3, 2025), reh'g denied (Nov. 6, 2025)
- Eichelberger v. Eichelberger, 582 S.W.2d 395, 398-99 (Tex. 1979)
- Brewer v. Lennox Hearth Products, LLC, 601 S.W.3d 704, 716, 723 n.76 (Tex. 2020)
- Darnell v. Broberg, 565 S.W.3d 450, 459-60 (Tex. App.—El Paso 2018, no pet.)
- Low v. Henry, 221 S.W.3d 609, 614 (Tex. 2007)
- GTE Communications Systems Corp. v. Tanner, 856 S.W.2d 725, 730 (Tex. 1993)
- Shah v. Maple Energy Holdings, LLC, No. 08-22-00198-CV, 2023 WL 4879905, at *2, *17-18 (Tex. App.—El Paso July 31, 2023), supplemented, 676 S.W.3d 820 (Tex. App.—El Paso 2023, pet. denied)
- Powell v. Fletcher, 695 S.W.3d 675, 681 (Tex. App.—Houston [1st Dist.] 2024, pet. denied)
- Owen v. Jim Allee Imports, Inc., 380 S.W.3d 276, 290 (Tex. App.—Dallas 2012, no pet.)
- Mattly v. Spiegel, Inc., 19 S.W.3d 890, 900-01 (Tex. App.—Houston [14th Dist.] 2000, no pet.)
- Thielemann v. Kethan, 371 S.W.3d 286, 295 (Tex. App.—Houston [1st Dist.] 2012, pet. denied)
- Dyson Descendant Corp. v. Sonat Exploration Co., 861 S.W.2d 942, 951 (Tex. App.—Houston [1st Dist.] 1993, no writ)
- Mobley v. Mobley, 506 S.W.3d 87, 94 (Tex. App.—Texarkana 2016, no pet.)
- McCullough v. Scarbrough, Medlin, & Associates Inc., No. 08-12-00205-CV, 2012 WL 3100845, at *1 (Tex. App.—El Paso July 31, 2012, no pet.) (mem. op.)

- State v. Rodriguez-Gomez, 716 S.W.3d 702, 713 (Tex. App.—San Antonio 2024, no pet.)
- Solomon v. Buckle, 695 S.W.3d 664, 674-75 (Tex. App.—Houston [1st Dist.] 2024)
- In re State, 605 S.W.3d 721, 722, 725, 728-29 (Tex. App.—Houston [1st Dist.] 2020, orig. proceeding)
- In re Garcia, No. 02-20-00161-CV, 2020 WL 4907330, at *4 (Tex. App.—Fort Worth Aug. 20, 2020, orig. proceeding) (mem. op.)
- Reynolds Energy Transport, LLC v. Plains Marketing, L.P., 706 S.W.3d 845, 875 (Tex. App.—San Antonio 2024, no pet.)
- Greene v. Young, 174 S.W.3d 291, 298 (Tex. App.—Houston [1st Dist.] 2005, pet. denied)
- In re L.A.M. & Associates, 975 S.W.2d 80, 83 (Tex. App.—San Antonio 1998, orig. proceeding)
- Tellez v. State, No. 08-13-00141-CR, 2015 WL 5449728, at *2 (Tex. App.—El Paso Sept. 16, 2015, pet. ref'd) (not designated for publication)
- Ray v. Farmers' State Bank of Hart, 576 S.W.2d 607, 608 n.1 (Tex. 1979)
- Rowell v. State, 66 S.W.3d 279, 282 (Tex. Crim. App. 2001) (en banc)
- Light v. State, 15 S.W.3d 104, 107 (Tex. Crim. App. 2000) (en banc)
- McCloud v. State, 527 S.W.2d 885, 887 (Tex. Crim. App. 1975)
- Breazeale v. State, 683 S.W.2d 446, 450 (Tex. Crim. App. 1984) (en banc)
- Nichols v. State, 511 S.W.2d 945, 947-48 (Tex. Crim. App. 1974)
- Mungin v. State, 192 S.W.3d 793, 794 (Tex. App.—Houston [1st Dist.] 2006, no pet.)
- Blair v. Blair, 642 S.W.3d 150, 162 (Tex. App.—El Paso 2021, no pet.)