

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Isaac Benavidez v. The State of Texas

No. 04-25-00095-CR · No. 04-25-00095-CR · Decided March 18, 2026

SUMMARY

The Fourth Court of Appeals of San Antonio affirmed Isaac Benavidez’s convictions for continuous sexual assault of a child and indecency with a child by sexual contact. Benavidez argued that the State improperly commented during punishment-phase closing argument on his failure to testify, but the court held that he forfeited the complaint by failing to object. The court relied on the preservation rule stated in Cockrell v. State.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Velia J. Meza; Rebeca C. Martinez, Chief Justice; H. Todd McCray, Justice; Velia J. Meza, Justice
JURISDICTION	Fourth Court of Appeals, San Antonio, Texas
DECIDED	March 18, 2026
DOCKET	04-25-00095-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Benavidez appealed his jury convictions and punishment for continuous sexual assault of a child and indecency with a child by sexual contact, arguing that the State improperly commented during punishment-phase closing argument on his failure to testify. He did not object to the argument in the trial court.
STANDARD OF REVIEW	Preservation of error; a defendant forfeits a complaint about improper jury argument by failing to object.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; do not publish.
PARTIES	Isaac Benavidez v. The State of Texas

TOPICS

- preservation of error
- appellate procedure
- criminal procedure
- fifth amendment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the State improperly commented during punishment-phase closing argument on Benavidez's failure to testify.
2. Whether Benavidez preserved that complaint for appellate review by objecting in the trial court.

HOLDINGS

1. A defendant forfeits a complaint about improper jury argument by failing to object; therefore, Benavidez's challenge to the State's comment on his failure to testify was waived.

KEY QUOTATIONS

“The Court of Criminal Appeals has long held that defendants forfeit their right to complain about improper jury arguments if they fail to object.” (4)

“He couldn’t even take that stand and tell you that he did these things, that he messed up. Is that someone that deserves mercy, who is just always going to deny that they even did this after they fully confessed to doing it just to get a more lenient sentence from you or to hopefully get a not guilty from you and not have to take responsibility for it?” (4)

FACTUAL BACKGROUND

A jury convicted Benavidez of continuous sexual assault of a child and indecency with a child by sexual contact after evidence concerning repeated sexual abuse of a child, including admissions during a custodial interrogation, was presented. During the punishment phase, the State argued that Benavidez did not deserve mercy because he had not taken the stand to admit that he committed the offenses. Benavidez did not object to the argument, and the jury assessed punishment at fifty years and thirteen years' imprisonment.

PROCEDURAL HISTORY

Benavidez was indicted in Bexar County on three counts. The trial court granted a directed verdict on the aggravated sexual assault count, and the jury convicted him on the remaining two counts and assessed punishment at fifty years and thirteen years' imprisonment, respectively. The Fourth Court of Appeals affirmed, holding that the complaint about the State's jury argument was not preserved because Benavidez failed to object.

DISPOSITION

affirmed

CASES CITED

- Cockrell v. State, 933 S.W.2d 73, 89 (Tex. Crim. App. 1996)
- Romo v. State, 631 S.W.2d 504 (Tex. Crim. App. 1982)
- Montoya v. State, 744 S.W.2d 15 (Tex. Crim. App. 1987)

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