

COURT OF CRIMINAL APPEALS OF TEXAS

Howard Wayne Lewis v. The State of Texas

Lewis v. State · No. No. AP-77,086 · Decided April 16, 2026

SUMMARY

The Texas Court of Criminal Appeals reviews Howard Wayne Lewis’s automatic direct appeal from his capital-murder conviction and death sentence for the murders of his sixteen-month-old son and the child’s maternal grandmother. The court rejects his challenges to the sufficiency of the guilt-phase and future-dangerousness evidence and addresses his challenge to the denial of a change of venue, affirming the trial court’s judgment.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
WRITING FOR THE COURT	Keel, J.
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	April 16, 2026
DOCKET	No. AP-77,086
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a capital-murder conviction and death sentence. Direct appeal to the Court of Criminal Appeals of Texas was automatic.
STANDARD OF REVIEW	The court reviewed guilt-phase and future-dangerousness sufficiency under Jackson v. Virginia, viewing the evidence in the light most favorable to the verdict. Change-of-venue rulings were reviewed for abuse of discretion. Speedy-trial historical facts were reviewed for abuse of discretion and the legal application of the Barker factors de novo. Continuance rulings and evidentiary rulings were generally reviewed for abuse of discretion. Massiah agency-related factual findings and credibility determinations received almost total deference. Preservation and briefing issues were reviewed under Texas appellate-procedure requirements.
PRECEDENTIAL VALUE	Published opinion; precedential under Texas law unless otherwise restricted by subsequent authority.
PARTIES	Howard Wayne Lewis v. The State of Texas

TOPICS

sentencing criminal procedure speedy trial jury selection expert testimony

PRACTICE AREAS

capital criminal law criminal procedure appellate procedure criminal evidence death penalty

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support Lewis's capital-murder conviction.
2. Whether the evidence was legally sufficient to support the jury's finding of future dangerousness.
3. Whether the trial court abused its discretion by denying a change of venue based on allegedly prejudicial pretrial publicity.
4. Whether the four-year-and-nine-month delay between indictment and trial violated Lewis's constitutional right to a speedy trial under *Barker v. Wingo*.
5. Whether the trial court erred in denying motions for continuance.
6. Whether the trial court erred in ruling on jury-selection challenges, including challenges for cause and Batson and J.E.B. claims.
7. Whether testimony from jail inmate Gregory Cunningham violated Lewis's Sixth Amendment right to counsel under *Massiah v. United States*.
8. Whether the trial court abused its discretion by admitting testimony concerning DNA likelihood ratios and testimony concerning future dangerousness.
9. Whether the remaining evidentiary, suppression, constitutional, and extraneous-conduct claims warranted reversal when they were unpreserved, inadequately briefed, unsupported, or meritless.

HOLDINGS

1. The evidence was legally sufficient to support Lewis's capital-murder conviction. Direct and circumstantial evidence are equally probative, and the cumulative force of the evidence permitted a rational jury to find beyond a reasonable doubt that Lewis committed the charged murders.
2. The evidence was legally sufficient to support the jury's finding that Lewis would probably commit criminal acts of violence constituting a continuing threat to society.
3. The trial court did not abuse its discretion by denying a change of venue because Lewis failed to show that the pretrial publicity was pervasive, prejudicial, and inflammatory or that it caused actual, identifiable prejudice in the jury pool.
4. The four-year-and-nine-month delay triggered the Barker inquiry but did not violate Lewis's constitutional right to a speedy trial.
5. The trial court did not err by admitting Cunningham's testimony because the evidence supported the finding that Cunningham was not a government agent who deliberately elicited Lewis's incriminating statements.

6. The trial court did not abuse its discretion by admitting expert testimony that Lewis's DNA likelihood ratio was 995 and placed his profile in the inconclusive category.
7. Claims that were unpreserved, inadequately briefed, multifarious, unsupported by authority, or based on conclusory assertions presented no reversible error.

KEY QUOTATIONS

“legally sufficient evidence does not depend on types of evidence offered but on the big picture shown by the totality of the evidence.” (Lewis–3)

“No single factor is necessary or sufficient to establish a violation of the right to a speedy trial; instead, we must weigh the conduct of the prosecution and defendant using a balancing test of the four factors.” (Lewis–30)

“Massiah held that the Sixth Amendment prohibits the use of a defendant’s “own incriminating words” against him in a criminal proceeding if the government or one of its agents “deliberately elicited” the incriminating statement in the absence of defendant’s counsel.” (Lewis–52)

FACTUAL BACKGROUND

Lewis was convicted of strangling his sixteen-month-old son, A.L., and bludgeoning A.L.'s maternal grandmother, Shanta Crawford, in Walker County on July 24, 2013. The prosecution relied primarily on circumstantial evidence, including Lewis's motive and opportunity, a cell-phone activity gap consistent with travel between Dallas and Huntsville, use of a borrowed vehicle, contradictory statements, and conduct suggesting efforts to conceal the crimes. The jury also heard punishment-phase evidence concerning Lewis's lack of remorse, manipulation and violence toward family members, jail misconduct, prior correctional-officer experience, and psychological characteristics associated with antisociality.

PROCEDURAL HISTORY

A Walker County jury convicted Lewis of capital murder in November 2018 and answered the punishment-phase special issues in a manner requiring a death sentence. The trial court entered judgment and sentenced Lewis to death. Lewis raised numerous points of error concerning evidentiary sufficiency, venue, speedy trial, continuances, jury selection, alleged Massiah violations, expert and other testimony, exhibits, and extraneous-conduct evidence. The Court of Criminal Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 937 S.W.2d 479, 482 (Tex. Crim. App. 1996)
- Jackson v. Virginia, 443 U.S. 307, 313, 318–19 (1979)
- Edwards v. State, 666 S.W.3d 571, 574 (Tex. Crim. App. 2023)
- Morgan v. State, 501 S.W.3d 84, 89 (Tex. Crim. App. 2016)

- *Isassi v. State*, 330 S.W.3d 633, 638 (Tex. Crim. App. 2010)
- *Williams v. State*, 235 S.W.3d 742, 750 (Tex. Crim. App. 2007)
- *Gardner v. State*, 306 S.W.3d 274, 285, 295–96 (Tex. Crim. App. 2009)
- *Hammack v. State*, 622 S.W.3d 910, 914 (Tex. Crim. App. 2021)
- *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007)
- *Nisbett v. State*, 552 S.W.3d 244, 265–66 (Tex. Crim. App. 2018)
- *Guevara v. State*, 152 S.W.3d 45, 50 (Tex. Crim. App. 2004)
- *Acosta v. State*, 429 S.W.3d 621, 625 (Tex. Crim. App. 2014)
- *Daniel v. State*, 485 S.W.3d 24, 31 (Tex. Crim. App. 2016)
- *Buntion v. State*, 482 S.W.3d 58, 66 (Tex. Crim. App. 2016)
- *Keeton v. State*, 724 S.W.2d 58, 61 (Tex. Crim. App. 1987)
- *Wardrip v. State*, 56 S.W.3d 588, 595 n.7 (Tex. Crim. App. 2001)
- *Hunter v. State*, 243 S.W.3d 664, 673 (Tex. Crim. App. 2007)
- *Tracy v. State*, 597 S.W.3d 502, 509–12 (Tex. Crim. App. 2020)
- *Gonzalez v. State*, 222 S.W.3d 446, 449, 451 (Tex. Crim. App. 2007)
- *DeBlanc v. State*, 799 S.W.2d 701, 704 (Tex. Crim. App. 1990)
- *Renteria v. State*, 206 S.W.3d 689, 699, 709 (Tex. Crim. App. 2006)
- *Balderas v. State*, 517 S.W.3d 756, 767–71 (Tex. Crim. App. 2016)
- *Gonzales v. State*, 435 S.W.3d 801, 808 (Tex. Crim. App. 2014)
- *Henson v. State*, 407 S.W.3d 764, 767 (Tex. Crim. App. 2013)
- *Doggett v. United States*, 505 U.S. 647, 652 n.1 (1992)
- *Dragoo v. State*, 96 S.W.3d 308, 314 (Tex. Crim. App. 2003)
- *Hopper v. State*, 520 S.W.3d 915, 924 (Tex. Crim. App. 2017)
- *State v. Munoz*, 991 S.W.2d 818, 822 (Tex. Crim. App. 1999)
- *Anderson v. State*, 301 S.W.3d 276, 279 (Tex. Crim. App. 2009)
- *Heiselbetz v. State*, 906 S.W.2d 500, 512 (Tex. Crim. App. 1995)
- *Kinnett v. State*, 623 S.W.3d 876, 906 (Tex. App.—Houston [1st Dist.] 2020, pet. ref'd)
- *Davis v. State*, 329 S.W.3d 798, 803, 807 (Tex. Crim. App. 2010)
- *Comeaux v. State*, 445 S.W.3d 745, 750 (Tex. Crim. App. 2014)
- *Hudson v. State*, 620 S.W.3d 726, 731 (Tex. Crim. App. 2021)
- *Lucio v. State*, 351 S.W.3d 878, 896 (Tex. Crim. App. 2011)
- *Batson v. Kentucky*, 476 U.S. 79 (1986)
- *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127 (1994)
- *Massiah v. United States*, 377 U.S. 201, 206 (1964)
- *Rubalcado v. State*, 424 S.W.3d 560, 575 (Tex. Crim. App. 2014)
- *Manns v. State*, 122 S.W.3d 171, 183–84 (Tex. Crim. App. 2003)
- *Hall v. State*, 663 S.W.3d 15, 29 (Tex. Crim. App. 2021)

- Null v. State, 690 S.W.3d 305, 311 (Tex. Crim. App. 2024)
- Kelly v. State, Kelly v. State, 824 S.W.2d 568, 573 (Tex. Crim. App. 1992)
- Weatherred v. State, 15 S.W.3d 540, 542 (Tex. Crim. App. 2000)
- Davis v. State, 313 S.W.3d 317, 350 (Tex. Crim. App. 2010)
- Rhomer v. State, 569 S.W.3d 664, 669 (Tex. Crim. App. 2019)
- Wyatt v. State, 23 S.W.3d 18, 27 (Tex. Crim. App. 2000)
- Rodgers v. State, 205 S.W.3d 525, 527–28 (Tex. Crim. App. 2006)
- Coble v. State, 330 S.W.3d 253, 274 (Tex. Crim. App. 2010)
- Payne v. Tennessee, 501 U.S. 808, 825 (1991)
- State v. Saenz, 411 S.W.3d 488, 496 (Tex. Crim. App. 2013)
- Mays v. State, 318 S.W.3d 368, 385 (Tex. Crim. App. 2010)