

COURT OF CRIMINAL APPEALS OF TEXAS

Tucker v. State

No. PD-1059-24 · No. PD-1059-24 · Decided February 12, 2026

SUMMARY

The Texas Court of Criminal Appeals reversed the Third Court of Appeals and remanded the case to the trial court to modify the judgment to include Texas Penal Code sections 22.021(a)(2)(B) and (f)(1) in the statute-for-offense field. The court relied on the parties’ agreement and did not decide whether subsection (f)(1), concerning victims under six years old, was required to appear in that specific judgment field. Judge Newell concurred, while Judge Yeary dissented from both the decision to avoid the legal issue and the remand to the trial court.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
WRITING FOR THE COURT	Schenck, P.J.; Richardson, J.; Newell, J.; Keel, J.; McClure, J.
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	February 12, 2026
DOCKET	PD-1059-24
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State petitioned for discretionary review of the Third Court of Appeals' denial of its request for a judgment nunc pro tunc modifying the judgment to include Texas Penal Code section 22.021(f)(1) in the statute-for-offense field.
STANDARD OF REVIEW	The court reviewed the court of appeals' disposition on the State's petition for discretionary review. It did not resolve the underlying legal-requirement issue because the appellant conceded that the judgment should be corrected.
PRECEDENTIAL VALUE	Published; precedential opinion of the Court of Criminal Appeals of Texas
PARTIES	Michael Tucker v. The State of Texas

TOPICS

- criminal procedure
- appellate procedure
- preservation of error
- statutory interpretation

PRACTICE AREAS

criminal procedure

appellate procedure

judgments nunc pro tunc

statutory interpretation

QUESTIONS PRESENTED

1. Whether the judgment should be modified to include Texas Penal Code section 22.021(f)(1) in the statute-for-offense field.
2. Whether the court should decide, notwithstanding the parties' agreement, whether section 22.021(f)(1) is legally required to appear in that field.

HOLDINGS

1. In light of Tucker's concession, the State was entitled to relief, and the judgment of the court of appeals was reversed. The cause was remanded to the trial court to modify the Count I judgment to state "PC 22.021(a)(2)(B), (f)(1)" in the statute-for-offense field.
2. The court did not decide that issue because Tucker conceded that the judgment should be corrected.

KEY QUOTATIONS

"Given Appellant's concession, we need not decide whether subsection (f)(1) must be included in the judgment's 'Statute for Offense' box." (TUCKER-3)

"We reverse the court of appeals's judgment, remand the cause to the trial court, and order the trial court to modify the judgment of conviction for Count I in appellate cause number 03-22-00697-CR (trial court cause number D-1-DC-21-904045) to show 'PC 22.021(a)(2)(B), (f)(1)' in the 'Statute for Offense' box." (TUCKER-3)

"As near as I can tell, there is no legal requirement that the 'Statute for Offense' box on the felony judgment form require more information than the trial court entered." (Tucker Concurring-2)

FACTUAL BACKGROUND

Tucker was convicted under a predecessor statute of super-aggravated sexual assault of a child, among other offenses. The applicable statute increased the minimum confinement term to twenty-five years when the victim was under six years old, and the corresponding provision affected parole eligibility. The judgment referred to the offense under section 22.021(a)(2)(B) and separately reflected that the victim was under six years old, but it did not include subsection (f)(1) in the judgment's statute-for-offense field.

PROCEDURAL HISTORY

Tucker was convicted under a predecessor version of Texas Penal Code section 22.021 of super-aggravated sexual assault of a child and other offenses. While Tucker's appeal was pending, the State sought a judgment nunc pro tunc to add subsection (f)(1) to the judgment's statute-for-offense entry. The Third Court of Appeals held that the judgment did not require modification because subsection (f)(1) concerned punishment rather than an element of the offense. The Court of Criminal Appeals granted discretionary review, reversed the court of

appeals, and remanded to the trial court with instructions to modify the judgment; it did not decide whether the notation was legally required because Tucker conceded that the judgment should be corrected.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was ordered to modify the judgment of conviction for Count I in appellate cause number 03-22-00697-CR and trial court cause number D-1-DC-21-904045 to show "PC 22.021(a)(2)(B), (f)(1)" in the "Statute for Offense" box.

CASES CITED

- Tucker v. State, 706 S.W.3d 379, 387, 390 (Tex. App.—Austin 2024) (op. on reh'g) (en banc)
- Gutierrez v. State, 710 S.W.3d 804, 809 (Tex. Crim. App. 2025)
- Collins v. State, 240 S.W.3d 925, 928 (Tex. Crim. App. 2007)
- Blanton v. State, 369 S.W.3d 894, 897-98 (Tex. Crim. App. 2012)
- Pena v. State, 191 S.W.3d 133, 136 (Tex. Crim. App. 2006)
- Ford v. State, 305 S.W.3d 530, 533 (Tex. Crim. App. 2009)
- Estrada v. State, 313 S.W.3d 274, 286 (Tex. Crim. App. 2010)

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