

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS,
CORPUS CHRISTI–EDINBURG

Reyes Salazar v. The State of Texas

No. 13-24-00024-CR (Tex. App.—Corpus Christi–Edinburg Dec. 11, 2025) · No. 13-24-00024-CR · Decided
December 11, 2025

SUMMARY

The Texas Thirteenth Court of Appeals considered whether the mistaken substitution of two alternate jurors for two regular jurors violated the appellant’s constitutional right to a twelve-person jury and Texas Code of Criminal Procedure Article 36.22. The court held that the substitution violated Article 33.011’s procedural requirements but did not violate the constitutional jury-size requirement or affect the appellant’s substantial rights. The court also upheld the denial of a motion for new trial, concluding that the proposed juror testimony was barred by Texas Rule of Evidence 606(b).

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas, Corpus Christi–Edinburg
WRITING FOR THE COURT	Jon West; Chief Justice Tijerina; Justice West; Justice Fonseca
JURISDICTION	Texas Court of Appeals, Thirteenth District, Corpus Christi–Edinburg
DECIDED	December 11, 2025
DOCKET	13-24-00024-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Reyes Salazar appealed his convictions and life sentences for continuous child sexual abuse and two counts of aggravated sexual assault of a child. He challenged the substitution of alternate jurors for regular jurors during deliberations, alleged violations of his constitutional right to a twelve-person jury and Texas Code of Criminal Procedure article 36.22, and challenged the denial of his motion for new trial and request to present juror testimony.
STANDARD OF REVIEW	Nonconstitutional error is reviewed for harm under Texas Rule of Appellate Procedure 44.2(b), requiring reversal only if the error affected substantial rights by having a substantial or injurious effect on the verdict. The denial of a motion for new trial is reviewed for abuse of discretion. The application of Texas Rule of Evidence 606(b) to

	proposed juror testimony presents a legal question reviewed under the rule's governing limitations.
PRECEDENTIAL VALUE	Published and precedential under Texas Rule of Appellate Procedure 47.2(b).
PARTIES	Reyes Salazar v. The State of Texas

TOPICS

criminal procedure jury selection evidence harmless error appellate procedure

PRACTICE AREAS

criminal law criminal procedure appellate practice

QUESTIONS PRESENTED

1. Whether substituting two alternate jurors for two regular jurors without the finding or agreement required by Texas Code of Criminal Procedure article 33.011 violated Salazar's constitutional right to a twelve-person jury.
2. Whether the jurors' mistaken participation, substitution, and return to the deliberation process violated Texas Code of Criminal Procedure article 36.22 and affected Salazar's substantial rights.
3. Whether the trial court erred by refusing to allow juror testimony concerning deliberations and by denying Salazar's motion for new trial under Texas Rule of Evidence 606(b).

HOLDINGS

1. The trial court erred under article 33.011 by replacing two regular jurors with alternate jurors without finding that the regular jurors were unable or disqualified to serve or obtaining the parties' agreement to the replacement, but the error did not violate Salazar's constitutional right to a twelve-person jury because the jury remained composed of twelve members.
2. Assuming that the alternate jurors' participation and the regular jurors' return to the deliberation room constituted outside influences and violated both prohibitions in article 36.22, the errors did not affect Salazar's substantial rights because the record did not show that outside information influenced the verdict.
3. The trial court did not reversibly err by refusing to allow the juror to testify about deliberations or by denying the motion for new trial because the proposed testimony concerned jurors' deliberative statements, votes, and mental processes, not an admissible outside influence or juror qualification issue, and was barred by Rule 606(b).

KEY QUOTATIONS

“Thus, we hold that the trial court erred by replacing the regular jurors with the alternate jurors without making the requisite finding under Article 33.011.” (4)

“While the “mix up” of the jurors violated Article 33.011, appellant was not harmed by the error because the record indicates that the alternate jurors were qualified and treated the same as regular jurors.” (9)

“We hold that even if the trial court erred by preventing M.C. from testifying, appellant was not harmed because her testimony would be barred by Rule 606.” (17)

FACTUAL BACKGROUND

During Salazar's criminal trial, twelve regular jurors and two alternates were selected without being told which jurors were alternates. When the jury retired to deliberate, the two alternate jurors were mistakenly sent to deliberate while two regular jurors were excused. The trial court made no finding that the regular jurors were disqualified or unable to serve and did not obtain the parties' agreement to their replacement. The record did not show that the alternate or returning regular jurors introduced outside information into deliberations. During deliberations, a juror was questioned about a note alleging bias, and Salazar later sought to present that juror's testimony in support of a motion for new trial.

PROCEDURAL HISTORY

Salazar was tried in the 206th District Court of Hidalgo County in December 2023. Twelve regular jurors and two alternate jurors were selected, but the alternates were mistakenly substituted for two regular jurors when deliberations began. The jury convicted Salazar on four charged offenses, and the trial court imposed life sentences on each count after enhancement by a prior felony conviction. The court of appeals affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- *Becerra v. State*, 620 S.W.3d 745 (Tex. Crim. App. 2021)
- *Taylor v. State*, No. 06-22-00071-CR, 2023 WL 2472641 (Tex. App.—Texarkana Mar. 13, 2023, pet. ref'd) (mem. op., not designated for publication)
- *McCumber v. State*, 714 S.W.3d 159 (Tex. App.—Beaumont 2024, no pet.)
- *Becerra v. State*, 685 S.W.3d 120 (Tex. Crim. App. 2024)
- *Hill v. State*, 475 S.W.3d 407 (Tex. App.—Houston [14th Dist.] 2015, pet. ref'd)
- *Jones v. State*, 982 S.W.2d 386 (Tex. Crim. App. 1998)
- *United States v. Olano*, 507 U.S. 725 (1993)
- *Lake v. State*, 532 S.W.3d 408 (Tex. Crim. App. 2017)
- *McClellan v. State*, 143 S.W.3d 395 (Tex. App.—Austin 2004, no pet.)
- *Gamboa v. State*, 296 S.W.3d 574 (Tex. Crim. App. 2009)
- *Becerra v. State*, 2025 WL 415460 (Tex. App.—Waco Feb. 6, 2025, pet. ref'd) (mem. op., not designated for publication)

- Hernandez v. State, 2024 WL 4374993 (Tex. App.—Eastland Oct. 3, 2024, no pet.) (mem. op., not designated for publication)
- Ocon v. State, 284 S.W.3d 880 (Tex. Crim. App. 2009)
- Chambliss v. State, 647 S.W.2d 257 (Tex. Crim. App. 1983)
- Anderson v. State, 665 S.W.3d 743 (Tex. App.—Houston [14th Dist.] 2023, pet. ref'd)
- McQuarrie v. State, 380 S.W.3d 145 (Tex. Crim. App. 2012)
- Colyer v. State, 428 S.W.3d 117 (Tex. Crim. App. 2014)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/texas-court-of-appeals-thirteenth-district-corpus-christi-edinburg-court-of-appeals-for-the-thirteen/2025/reyes-salazar-v-the-state-of-texas-qacy3me6>