

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Rodney Wayne Gray v. the State of Texas

Gray v. State · No. No. 01-25-00105-CR · Decided June 16, 2026

SUMMARY

The First Court of Appeals of Texas reviews the adjudication of Rodney Wayne Gray’s guilt after deferred-adjudication community supervision. The court holds that, under Texas Penal Code section 46.02(a-1)(2)(A), the State proved by a preponderance of the evidence that Gray was engaged in criminal activity, including possession or attempted possession of methamphetamine, while carrying a handgun in a vehicle under his control. The court affirms the trial court’s judgment and eight-year sentence.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Jennifer Caughey; Gunn; Guiney
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	June 16, 2026
DOCKET	No. 01-25-00105-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gray appealed from an order adjudicating him guilty after the trial court found that he violated deferred-adjudication community supervision by committing the offense of unlawful carrying of a weapon.
STANDARD OF REVIEW	A decision to adjudicate guilt after deferred adjudication is reviewed for abuse of discretion. The evidence is viewed in the light most favorable to the trial court's ruling, and the trial court is the sole judge of witness credibility and evidentiary weight. The State must prove a community-supervision violation by a preponderance of the evidence.
PRECEDENTIAL VALUE	unpublished
PARTIES	Rodney Wayne Gray v. The State of Texas

TOPICS

- criminal procedure
- probation
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

criminal law

community supervision

deferred adjudication

weapons offenses

controlled substances

QUESTIONS PRESENTED

1. Whether the evidence was sufficient under the preponderance-of-the-evidence standard to show that Gray was engaged in criminal activity while knowingly carrying a handgun in a vehicle under his control, as required by Texas Penal Code section 46.02(a-1)(2)(A).
2. Whether the trial court abused its discretion by adjudicating Gray guilty based on the unlawful-carrying violation despite finding the unauthorized-use allegation not true and declining to find the possession-with-intent-to-deliver allegation true.
3. Whether the State was required to obtain a conviction or laboratory testing for the underlying criminal activity before proving the unlawful-carrying violation.

HOLDINGS

1. The phrase 'engaged in criminal activity' broadly encompasses criminal action or conduct, except for a Class C misdemeanor that is a violation of a traffic or boating law or ordinance.
2. The State need not obtain a conviction for the underlying criminal activity; it may prove that activity under the applicable preponderance-of-the-evidence standard as part of proving the unlawful-carrying violation.
3. The evidence supported a reasonable belief, by a preponderance of the evidence, that Gray was engaged in criminal activity by possessing methamphetamine or, at least, attempting to possess it while carrying the handgun.
4. The trial court's failure to find unauthorized use of a vehicle or possession with intent to deliver did not preclude a finding that Gray possessed or attempted to possess methamphetamine and was therefore engaged in criminal activity for purposes of section 46.02(a-1)(2)(A).

KEY QUOTATIONS

“Under Section 46.02(a-1)’s terms and Texas caselaw, the State must prove engagement in “criminal activity” as part of the unlawful-carrying offense.” (11)

“The greater weight of credible evidence before the trial court supports the trial court’s reasonable belief that it is more probable than not that Gray violated his community supervision by committing the new offense of unlawful carrying of a weapon.” (20)

FACTUAL BACKGROUND

While on deferred-adjudication community supervision for possession of methamphetamine, Gray was arrested after officers located a reported stolen vehicle in a bar parking lot and observed Gray drive it. Officers searched the vehicle and found a handgun in a holster between the driver's seat and center console, as well as suspected methamphetamine, empty baggies, a scale, cash, and Gray's debit card in a bag under the driver's seat. Gray

admitted that he knew the vehicle contained a gun and methamphetamine, although he disputed ownership of both the drugs and the gun at the hearing.

PROCEDURAL HISTORY

Gray pleaded guilty in 2018 to possession of methamphetamine, received deferred adjudication, and was placed on community supervision. After his arrest in February 2024, the State moved to adjudicate guilt based on alleged new offenses. Following an evidentiary hearing, the trial court found the unlawful-carrying allegation true, found the unauthorized-use allegation not true, declined to make a true or not-true finding on possession with intent to deliver, adjudicated Gray guilty, and sentenced him to eight years' imprisonment. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Smith v. State, 286 S.W.3d 333, 342 (Tex. Crim. App. 2009)
- Bell v. State, 649 S.W.3d 867, 898 (Tex. App.—Houston [1st Dist.] 2022, pet. ref'd)
- Hacker v. State, 389 S.W.3d 860, 865 (Tex. Crim. App. 2013)
- Rickels v. State, 202 S.W.3d 759, 763-64 (Tex. Crim. App. 2006)
- Cardona v. State, 665 S.W.2d 492, 493-94 (Tex. Crim. App. 1984)
- Garrett v. State, 619 S.W.2d 172, 174 (Tex. Crim. App. [Panel Op.] 1981)
- Black v. State, 411 S.W.3d 25, 28-30 (Tex. App.—Houston [14th Dist.] 2013, no pet.)
- Medina v. State, 555 S.W.3d 581, 590 (Tex. App.—Houston [1st Dist.] 2011, pet. ref'd)
- Edwards v. State, 666 S.W.3d 571, 575 (Tex. Crim. App. 2023)
- Rodriguez v. State, No. 14-23-00780-CR, 2024 WL 4234265, at *2-3 (Tex. App.—Houston [14th Dist.] Sept. 19, 2024, no pet.)
- State v. Villanueva, 672 S.W.3d 189, 194 (Tex. App.—Fort Worth 2023, pet. ref'd)
- Villarreal v. State, 453 S.W.3d 429, 440 (Tex. Crim. App. 2015)
- Reyna v. State, 597 S.W.3d 604, 606-07 (Tex. App.—Houston [14th Dist.] 2020, pet. ref'd)
- Barrios v. State, 389 S.W.3d 382, 393 (Tex. App.—Texarkana 2012, pet. ref'd)
- Watts v. State, 371 S.W.3d 448, 460 (Tex. App.—Houston [14th Dist.] 2012, no pet.)
- Crumpton v. State, 977 S.W.2d 763, 770 (Tex. App.—Fort Worth 1998, no pet.)
- McBride v. State, 803 S.W.2d 741, 744 (Tex. App.—Dallas 1990, pet. ref'd)
- Upchurch v. State, 23 S.W.3d 536, 538 (Tex. App.—Houston [1st Dist.] 2000, pet. ref'd)
- Beasley v. State, 426 S.W.3d 140, 144 (Tex. App.—Houston [1st Dist.] 2012, no pet.)
- Lyons v. State, 222 S.W.3d 658, 659-60 (Tex. App.—Houston [14th Dist.] 2007, no pet.)
- Evans v. State, 202 S.W.3d 158, 162 n.12 (Tex. Crim. App. 2006)
- Sterling v. State, 791 S.W.2d 274, 276-77 (Tex. App.—Corpus Christi-Edinburg 1990, pet. ref'd)

- Giddings v. State, 816 S.W.2d 538, 539-40 (Tex. App.—Dallas 1991, pet. ref'd)
- Rivas v. State, 787 S.W.2d 229, 231-33 (Tex. App.—Corpus Christi-Edinburg 1990, pet. ref'd)
- Graff v. State, 65 S.W.3d 730, 742-43 (Tex. App.—Waco 2001, pet. ref'd)
- Baxter v. State, 718 S.W.2d 28, 30-32 (Tex. App.—Eastland 1986, pet. ref'd)
- Jordan v. State, 486 S.W.2d 784, 785 (Tex. Crim. App. 1972)
- Ex parte Mable, 443 S.W.3d 129, 130-31 (Tex. Crim. App. 2014)

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