

COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

Marcus Ray Haynes v. The State of Texas

Haynes v. State · No. No. 09-24-00047-CR · Decided November 26, 2025

SUMMARY

The Ninth Court of Appeals of Texas considered whether the trial court abused its discretion by ordering consecutive sentences for continuous sexual abuse of a child, aggravated sexual assault of a child, and possession of a controlled substance. The court held that the statutory exceptions permitting consecutive sentences applied and affirmed the trial court’s judgment.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	Jay Wright; Golemon, C.J.; Johnson, J.; Wright, J.
JURISDICTION	Court of Appeals for the Ninth District of Texas at Beaumont
DECIDED	November 26, 2025
DOCKET	No. 09-24-00047-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Haynes appealed his convictions and sentences from the 260th District Court of Orange County, challenging the trial court's authority to cumulate or stack his sentences.
STANDARD OF REVIEW	Abuse of discretion.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; marked Do Not Publish.
PARTIES	Marcus Ray Haynes v. The State of Texas

TOPICS

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

PRACTICE AREAS

- Texas criminal law
- sentencing
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Texas Penal Code section 3.03 required the sentences for continuous sexual abuse of a child and aggravated sexual assault of a child to run concurrently.
2. Whether the trial court had authority under Texas Penal Code section 3.03 and Texas Code of Criminal Procedure article 42.08 to cumulate the sentences for the sexual offenses and the drug-possession offense.

HOLDINGS

1. Texas Penal Code section 3.03 did not apply to the drug-possession offense because that offense was not part of the same criminal episode as the continuous-sexual-abuse offense; therefore, the trial court was authorized under article 42.08 to cumulate the sentences involving the drug offense.
2. The trial court did not abuse its discretion by cumulating the twenty-year sentence for aggravated sexual assault of a child with the forty-year sentence for continuous sexual abuse of a young child because section 3.03 provides statutory exceptions permitting consecutive sentences for those offenses.

KEY QUOTATIONS

“Except as otherwise provided by this section, the sentences shall run concurrently.” (at 3)

“Since section 3.03 of the Penal Code permits sentences for these offenses to be cumulated, we affirm the trial court’s order cumulating Haynes’ twenty- and forty-year sentences.” (at 5)

FACTUAL BACKGROUND

Haynes was charged in separate causes with continuous sexual abuse of a child, aggravated sexual assault of a different child under fourteen, and possession of a controlled substance. He pleaded guilty to all three charges, and after a presentence report and hearing testimony from the victims, the trial court accepted the pleas. The court sentenced him to twenty years for aggravated sexual assault and forty years for continuous sexual abuse and ordered the sentences to run consecutively; the appeal challenged the cumulation of those sentences.

PROCEDURAL HISTORY

Haynes pleaded guilty in open pleas to continuous sexual abuse of a child, aggravated sexual assault of a child, and possession of a controlled substance. After a presentence report and a subsequent hearing at which the court heard testimony from victims, the trial court accepted the pleas, imposed twenty years for aggravated sexual assault and forty years for continuous sexual abuse, and ordered the sentences to run consecutively. Haynes appealed the cumulation order, and the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Beedy v. State, 194 S.W.3d 595, 597 (Tex. App.—Houston [1st Dist.] 2006), aff’d, 250 S.W.3d 107 (Tex. Crim. App. 2008)

- Pettigrew v. State, 48 S.W.3d 769, 773 (Tex. Crim. App. 2001)
- Nicholas v. State, 56 S.W.3d 760, 765 (Tex. App.—Houston [14th Dist.] 2001, pet. ref'd)
- Smith v. State, No. 09-17-00081-CR, 2018 Tex. App. LEXIS 1874, at *2 n.1 (Tex. App.—Beaumont Mar. 14, 2018, no pet.) (mem. op., not designated for publication)

OPINION

PER CURIAM.

In The Court of Appeals Ninth District of Texas at Beaumont _____ NO. 09-24-00047-CR _____ MARCUS RAY HAYNES, Appellant V. THE STATE OF TEXAS, Appellee

On
Appeal from the 260th District Court Orange County, Texas Trial Cause No. D230330-R

MEMORANDUM OPINION Appellant, Marcus Ray Haynes, appeals the trial court's judgment finding him guilty of the offense of continuous sexual abuse of a child and ordering his sentence of forty years of confinement to be served consecutively with his sentences for aggravated sexual assault of a child and possession of a controlled substance.

See Tex. Penal Code Ann. §§ 21.02, 22.021; Tex. Health & Safety Code Ann. § 481.102(6). For the reasons set forth below, we affirm the trial court's judgment. 1 BACKGROUND In cause number D230330-R, Haynes was indicted for continuous sexual abuse of "Nancy."¹ In cause number D230333-R, Haynes was charged with aggravated sexual assault of "Allison," a different child under fourteen years old, and with the alleged offenses having occurred in different years.

In cause number D230654-R, Haynes was charged with a drug offense. In open pleas to the trial court, Haynes pleaded guilty to all three charges, but the trial court did not accept Haynes' guilty pleas at that time. After a presentence report was completed, the trial court convened another hearing, heard testimony from Haynes' victims in cause numbers D230333-R and D-230330-R, accepted Haynes' guilty pleas in both cases, sentenced Haynes to twenty years in cause number D230333-R and forty years in cause number D230330-R, and ordered the sentences to run consecutively.

On appeal, Haynes argues that the trial court's order violates section 3.03 of the Texas Penal Code, which outlines when a trial court must impose concurrent 1 We refer to the victims by pseudonyms to conceal their identities. See Tex. Const. art. I, § 30(a)(1) (granting crime victims "the right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process").

See Smith v. State, No. 09-17-00081-CR, 2018 Tex. App. LEXIS 1874, at *2 n.1 (Tex. App.—Beaumont Mar. 14, 2018, no pet.) (mem. op., not designated for publication). 2 sentences. See

Tex. Penal Code Ann. § 3.03(b). The State argues the stacking or cumulation of the sentences is valid. See *id.* § 3.03(b)(2)(A), (2-a)(A). **STANDARD OF REVIEW** We review complaints about a trial court’s decision to “stack” or run sentences consecutively for an abuse of discretion.

Beedy v. State, 194 S.W.3d 595, 597 (Tex. App.—Houston [1st Dist.] 2006, *aff’d*, 250 S.W.3d 107 (Tex. Crim. App. 2008); see Tex. Code Crim. Proc. Ann. art. 42.08(a). The legislature intended “to give the trial court the maximum flexibility possible in stacking sentences[,]” but that discretion is limited by section 3.03 of the Texas Penal Code, which specifies when sentences must run concurrently or may instead run consecutively.

Pettigrew v. State, 48 S.W.3d 769, 773 (Tex. Crim. App. 2001); see Tex. Penal Code Ann. § 3.03. Generally, an abuse of discretion occurs if the record shows the trial court lacked the authority to cumulate the defendant’s sentences in the manner the court ordered in the case or cases that the defendant appealed. See *Nicholas v. State*, 56 S.W.3d 760, 765 (Tex.

App.—Houston [14th Dist.] 2001, *pet. ref’d*). Section 3.03 of the Penal Code states, in pertinent part: (a) When the accused is found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, a sentence for each offense for which the accused has been found guilty shall be pronounced. Except as otherwise provided by this section, the sentences shall run concurrently.

3 (b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of: (2) an offense: (A) under Section 33.021 or an offense under Section 21.02, 21.11, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or (B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; (8) any combination of offenses listed in Subdivisions (1)-(7).

Tex. Penal Code Ann. § 3.03. “Criminal episode” is defined as [T]he commission of two or more offenses, regardless of whether the harm is directed toward or inflicted upon more than one person or item of property, under the following circumstances: (1) the offenses are committed pursuant to the same transaction or pursuant to two or more transactions that are connected or constitute a common scheme or plan; or 4 (2) the offenses are the repeated commission of the same or similar offenses.

Id. § 3.01. ANALYSIS We begin by determining whether section 3.03 of the Penal Code applies to this case by examining whether Haynes was prosecuted in a “single criminal action” for offenses constituting the “same criminal episode.” See id. §§ 3.01, 3.03.

The drug offense was not part of the “same criminal episode” as the continuous sexual abuse offense because it was neither part of the same transaction nor the repeated commission of a same or similar offense. See id. Accordingly, section 3.03 would not apply to the drug offense and the trial court was authorized to stack or cumulate the sentences for continuous sexual abuse on the sentence for drug possession under article 42.08 of the Texas Code of Criminal Procedure.

Id., see Tex. Code Crim. Proc. Ann. Art. 42.08. (“[T]he judgment in the second and subsequent convictions may either be that the sentence imposed or suspended shall begin when the judgment and the sentence imposed or suspended in the preceding conviction has ceased to operate, or that the sentence imposed or suspended shall run concurrently with the other case or cases, and sentence and execution shall be accordingly[.]”).

That said, assuming without deciding that Haynes was prosecuted in a “single criminal action” for continuous sexual abuse of a child and for aggravated sexual assault and that such offenses were part of the “same criminal episode,” we conclude one or more 5 statutory exceptions applies which permitted the trial court to stack or cumulate the twenty- and forty-year sentences.

See Tex. Penal Code Ann. § 3.03(a), (b). The statutory exceptions where stacking may be allowed include, among others, offenses for continuous sexual abuse of a young child and aggravated sexual assault. See id. §§ 3.03(b)(2), (2-a), 21.02, 22.021(a)(1)(B). Haynes pleaded guilty to and was convicted of both continuous sexual abuse of a young child and aggravated sexual assault of a child.

See Tex. Penal Code Ann. §§ 21.02, 22.021. Since section 3.03 of the Penal Code permits sentences for these offenses to be cumulated, we affirm the trial court’s order cumulating Haynes’ twenty- and forty-year sentences. See id. §§ 3.03(b)(2), (2-a).

We overrule Haynes’ sole issue. CONCLUSION We affirm the trial court’s judgment. AFFIRMED. JAY WRIGHT Justice Submitted on October 21, 2025 Opinion Delivered November 26, 2025 Do Not Publish Before Golemon, C.J., Johnson and Wright, JJ. 6