

COURT OF APPEALS, SECOND APPELLATE DISTRICT OF TEXAS AT FORT WORTH

Kevin Thompson v. the State of Texas

Thompson · No. 02-25-00109-CR · Decided February 26, 2026

SUMMARY

The Second Court of Appeals of Texas affirmed Kevin Thompson’s conviction for family-violence assault by impeding breath or blood. The court held that Thompson failed to preserve his Rule 403 complaint regarding testimony about extraneous acts of physical and mental abuse because he did not make a Rule 403 objection at trial and did not object each time the testimony was elicited. The court also concluded that additional unenumerated complaints were unpreserved and inadequately briefed.

CASE DETAILS

COURT	Court of Appeals, Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Wade Birdwell; Sudderth, C.J.; Kerr, J.; Birdwell, J.
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	February 26, 2026
DOCKET	02-25-00109-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Thompson appealed his conviction for family-violence assault by impeding breath or blood, arguing that the trial court improperly admitted extraneous-act evidence under Texas Rule of Evidence 403.
STANDARD OF REVIEW	The alleged evidentiary ruling would ordinarily be reviewed for abuse of discretion, but the court resolved the appeal on preservation grounds.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Kevin Thompson v. The State of Texas

TOPICS

- preservation of error
- appellate procedure
- criminal procedure
- evidence
- relevance

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Thompson preserved his complaint that the probative value of testimony concerning his extraneous physical and mental abuse was substantially outweighed by the danger of unfair prejudice under Texas Rule of Evidence 403.
2. Whether Thompson preserved his additional complaints concerning testimony by A.T.'s brother and boyfriend and cross-examination of A.T.

HOLDINGS

1. Thompson failed to preserve his complaint that testimony about his extraneous acts of physical and mental abuse should have been excluded under Rule 403 because he did not make a Rule 403 objection at trial, and his appellate complaint did not comport with the objections he made.
2. Even if Thompson had made a Rule 403 objection, he still would not have preserved error because he failed to object each time the State elicited testimony concerning his extraneous physical-abuse acts.
3. Thompson's additional complaints were not preserved and, independently, were inadequately briefed, so they presented nothing for appellate review.

KEY QUOTATIONS

“To preserve a complaint for our review, a party must have presented to the trial court a timely request, objection, or motion sufficiently stating the specific grounds, if not apparent from the context, for the desired ruling.” (at 4)

“The complaint made on appeal must comport with the complaint made in the trial court; otherwise, the error is forfeited.” (at 5)

“Because Thompson never raised a Rule 403 objection during trial, he has failed to preserve his sole appellate issue for our review.” (at 8)

FACTUAL BACKGROUND

Thompson confronted his daughter, A.T., after hearing her curse, slapped her, and choked her over a kitchen counter until she experienced blurred vision, lost consciousness, and urinated on herself. At trial, Thompson admitted arguing with A.T. but claimed he had merely disciplined her and acted in self-defense. To rebut that theory, the State introduced evidence of Thompson's prior physical and mental abuse of A.T. and her siblings. The jury rejected self-defense, convicted Thompson, and the trial court imposed a probated ten-year sentence.

PROCEDURAL HISTORY

A jury found Thompson guilty of family-violence assault by impeding breath or blood and assessed ten years' confinement, recommending probation. The trial court sentenced him to ten years' imprisonment, probated for ten years. The court of appeals affirmed because Thompson failed to preserve his Rule 403 complaint and his additional unenumerated complaints were also unpreserved and inadequately briefed.

DISPOSITION

affirmed

CASES CITED

- Montelongo v. State, 623 S.W.3d 819, 822 (Tex. Crim. App. 2021)
- Ensley v. State, No. 02-24-00188-CR, 2025 WL 1717144, at *3 (Tex. App.-Fort Worth June 19, 2025, pet. ref'd) (mem. op., not designated for publication)
- Dixon v. State, 595 S.W.3d 216, 223 (Tex. Crim. App. 2020)
- Mendez v. State, 138 S.W.3d 334, 342 (Tex. Crim. App. 2004)
- Clark v. State, 365 S.W.3d 333, 339 (Tex. Crim. App. 2012)
- Lovill v. State, 319 S.W.3d 687, 691-92 (Tex. Crim. App. 2009)
- Pena v. State, 285 S.W.3d 459, 464 (Tex. Crim. App. 2009)
- Resendez v. State, 306 S.W.3d 308, 313 (Tex. Crim. App. 2009)
- Minze v. State, No. 02-19-00303-CR, 2021 WL 2006474, at *2 (Tex. App.-Fort Worth May 20, 2021, no pet.) (mem. op., not designated for publication)
- McGuire v. State, No. 02-18-00030-CR, 2019 WL 4048865, at *2 (Tex. App.-Fort Worth Aug. 28, 2019, no pet.) (mem. op., not designated for publication)
- Lumsden v. State, 564 S.W.3d 858, 880 (Tex. App.-Fort Worth 2018, pet. ref'd)
- Matz v. State, 21 S.W.3d 911, 912 (Tex. App.-Fort Worth 2000, pet. ref'd)
- Lucio v. State, 351 S.W.3d 878, 896 (Tex. Crim. App. 2011)
- Jessop v. State, 368 S.W.3d 653, 681, 685 (Tex. App.-Austin 2012, no pet.)
- Ochoa v. State, 355 S.W.3d 48, 56 (Tex. App.-Houston [1st Dist.] 2010, pet. ref'd)