

TIBA's Cases of the Week

Court of Criminal Appeals / Fourth Court of Appeals

[Case Name]: **Juan Guerra v. The State of Texas**

- **OFFENSE:** Murder
- **COUNTY:** Bexar
- **COURT OF APPEALS:** San Antonio 2026
- **C/A CITATION:** Unpublished
- **C/A RESULT:** Conviction Affirmed
- **CCA. CASE No.** PD-0316-26 **DATE OF OPINION:** June 25, 2026
- **DISPOSITION:** Court of Appeals Reversed
- **OPINION:** [Per Curiam](#) **VOTE:** 9-0
- **TRIAL COURT:** 399th D/C; Hon. Frank Castro
- **LAWYERS:** Appellant *Pro Se*

[§§ 517.01 Appellate Procedure / Briefs / Frivolous Appeals (Access to Record)]: Appellant was convicted of murder and sentenced on February 27, 2025. On September 15, 2025, Appellant's appellate counsel filed a brief and a motion to withdraw pursuant to **Anders v. California**, 386 U.S. 738 (1967). Counsel certified that he had mailed Appellant the record, the brief and a letter explaining Appellant's rights. Appellant did not file a *pro se* response brief. In response to a request from the Court of Appeals, counsel provided a receipt showing a mailing on September 13, 2025, addressed to Appellant at a TDCJ unit in Iowa Park, Texas. The tracking number showed a delivery date to that address on September 15, 2025. However, information from the Texas Department of Criminal Justice Time Management Classification and Transportation Division shows that Appellant was transferred to the Bexar County Jail on September 10, 2025, and remains there at present. Apparently, unbeknownst to appellate counsel Appellant never received any information about his appeal because he had been transferred to the county jail before counsel's mailing was sent or delivered to the Iowa Park location. In an unpublished opinion in March of 2026, the Court of Appeals issued an opinion stating it had reviewed the entire record and appellate counsel's brief. The court concluded the appeal was frivolous and without merit under **Anders**. The court granted counsel's motion to withdraw.

[Holding]: Appellant has now filed a petition for discretionary review in which he asserts that he has been held in the Bexar County Jail for some time and has never received any information from

his appellate counsel that the appeal was frivolous, that counsel would withdraw, or what Appellant's rights were in this regard. *** Based on this record, Appellant's claim is supported. Appellant was never informed about the Anders appeal and his associated rights. Kelly v. State, 436 S.W.3d 313 (Tex.Cr.App. 2014)[see (68), Vol. 22, No. 26; 06/30/2014]. Despite counsel's efforts, Appellant was not accorded his rights under Anders and Kelly. Although the Court of Appeals has issued an opinion based on the Anders brief and allowed counsel to withdraw, it must rectify the situation in accordance with Kelly. *** We grant appellant's petition for discretionary review, vacate the judgment of the Court of Appeals, and remand this cause to the Court of Appeals for further proceedings consistent with Kelly.

Sidebars

[David A. Schulman]: This case appears to be a classic "breakdown in the system" as in Ex parte Riley, 193 S.W.3d 900 (Tex.Cr.App. 2006)[see (68), Vol. 14, No. 22; 06/12/2006]. The fundamental problem with the required notices involved Anders cases and compliance with Rule 48.4, Tex.R.App.Pro., is that **nothing** requires actual proof that the inmate received anything. I have long believed that when an inmates gets something requiring a signature, he or she should be the one signing the document which constitutes proof of delivery, **not** a TDCJ-CID employee. Also, a note to defense counsel --- although it may not have made a difference in this case, anytime you're required to post something to a client in prison, check TDCJ's only data base to ensure that the client is where you think he/she is when you actually mail the letter.

[John G. Jasuta]: Good to see the law being followed.

[Case Name]: Felipe Mendoza III v. The State of Texas

- **OFFENSE:** Smuggling of Persons (8x)
- **COUNTY:** Kimble
- **C/A CASE No.** 04-24-00454-CR
- **DATE OF ORDER:** June 22, 2026 **OPINION:** Per Curiam
- **DISPOSITION:** Orders Issued
- **TRIAL COURT:** 452nd D/C; Hon. Rob Hofmann
- **LAWYERS:** John Matthews & Appellant Pro Se (Defense); Tonya Ahlschwede (State)

(68) 517.01 Appellate Procedure / Briefs / Frivolous Appeals (Access to Record): Appellant was convicted by a jury of eight counts of smuggling of persons with intent to flee and sentenced to twenty-five years' confinement. In May of 2025, Appellant's court appointed counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), concluding that Appellant's appeal was frivolous. Appellant has made several requests for documents and exhibits with which the courts have been unable to comply. In May and June of this, he made requests for both specific exhibits and access to documents not part of the appellate record.

[Holding]: From our review of the record and appellate filings, we are not satisfied that Appellant has had a meaningful opportunity to review the complete appellate record, including Exhibit SX-16. *** Accordingly, to the extent that Appellant requests additional discovery not part of the appellate record, that request is **DENIED**. *** However, to the extent Appellant requests access to exhibits that are part of the appellate record, including Exhibit SX-16, the request is **GRANTED**. *** In an effort to provide Appellant with personal access to the exhibits that are part of the appellate record, including Exhibit SX-16, we hereby **INSTRUCT** the clerk of this court to electronically copy Exhibits SX-5, SX-6, SX-16, and DX-3 on to a flash drive and send it to Appellant in the care of the warden at the Jordan Unit, along with a copy of this order. We **ORDER** the warden of the Jordan Unit to promptly provide Appellant with supervised access to a computer or other equipment on which he may personally view the exhibits for purposes of preparing his pro se brief. *** The warden of the Jordan Unit is further **ORDERED** to certify in writing to this court the date on which Appellant personally viewed the electronic copies of the exhibits. ***The warden’s certification is due in this court no later than fifteen (15) days from the date of this order.*** Further, it is not necessary for the record (flash drive) to be returned to this Court and it may be destroyed by the Warden after Appellant has filed his brief.

Sidebars

[John G. Jasuta]: This is how it should be done and, even though they aren’t going to like it, TDCJ is the only entity that can do what needs to be done in this situation. This Court recognizes the reality of the situation and handles it very appropriately. We’ll see who screams now.

[David A. Schulman]: This may be the first time an appellate court has Ordered a TDCJ employee to “assist” in this fashion. There was a very similar Order issued by the Eighth Court of Appeals in Artz v. State (08-25-00124-CR), but it ordered a Guadalupe County employee to assist, not a TDCJ employee.