



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0034-21

CORNELL WITCHER, Appellant

v.

THE STATE OF TEXAS

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE SIXTH COURT OF APPEALS
BOWIE COUNTY**

**KEEL, J., filed a dissenting opinion in which RICHARDSON, WALKER,
and MCCLURE, JJ., joined.**

DISSENTING OPINION

The statute defining continuous sexual abuse of a child offers no leeway for the minimum period required: It must be 30 days or more. Tex. Penal Code § 21.02(b)(1). In this case the testimony about the endpoint of the period was definitive: July 26, 2018. But the testimony about its beginning was equivocal—the abuse began “at some point,” “around,” “about,” “maybe,” “as close as possible,” or “give or take” June 10, 2018.

Given these equivocations, the jury had to guess about the meaning of the testimony, which means they had to speculate, and speculation will not support a finding beyond a reasonable doubt. *Hooper v. State*, 214 S.W.3d 9, 16 (Tex. Crim. App. 2007). Rather than blur the 30-day requirement, I would affirm the judgment of the court of appeals. Since the Court does otherwise, I respectfully dissent.

Filed: January 26, 2022

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