

**Affirmed and Memorandum Opinion filed July 18, 2017.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-17-00002-CR**

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**ANA AGUILLON, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 184th District Court  
Harris County, Texas  
Trial Court Cause No. 1506540**

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**M E M O R A N D U M   O P I N I O N**

Appellant Ana Aguillon challenges her conviction for tampering with governmental records. In a single issue, appellant claims the judgment against her is void because the trial court did not have proper jurisdiction to hear the case. Specifically, appellant argues that if, as here, a grand jury impaneled in one district court presents an indictment to a different district court in the same county, the latter court does not have jurisdiction over the subsequent proceedings. We disagree, as we have other intermediate appellate courts, and affirm.

## **Background**

Appellant was employed by Harris County Precinct 6 Constable's Office as a senior deputy contract constable.<sup>1</sup> While on duty, officers are to report their locations by using their mobile data terminal (MDT).<sup>2</sup> On May 21, 2015, Sergeant Fabian Arista, an investigator with the internal affairs division, observed appellant inside a hotel lobby, watching a basketball game while she was on duty.<sup>3</sup> Appellant's MDT, however, showed her location to be across the street at a housing complex, to which appellant was assigned to patrol. While Arista was surveilling appellant on May 21, she never went to the housing complex.

Appellant was indicted for tampering with a government record, a state jail felony. Specifically, appellant was charged with knowingly making a false entry in a government record generated by her MDT when she reported that she was located at a certain address at a time she was not at that location.

The grand jury that prepared the indictment was impaneled by the 177th Judicial District Court of Harris County. The case was filed in the 184th Judicial District Court of Harris County. Appellant pleaded not guilty to the charge and the case was tried to a jury, which found appellant guilty. The trial court sentenced appellant to 18 months' confinement, but suspended the sentence and placed appellant on community supervision, in addition to assessing a \$200 fine.

Appellant timely appeals.

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<sup>1</sup> Because appellant presents a narrow jurisdictional issue, many of the facts are not relevant to the issue on appeal. We provide a brief summary for context only.

<sup>2</sup> One of the witnesses at trial testified that it is important that the records from the MDT, which are provided to the precinct dispatcher, are accurate. Officers are to update their current locations for the safety of the officers and the public.

<sup>3</sup> According to Sergeant Arista, the internal affairs division investigates complaints against the police officers, deputies, and civilian employees of Precinct 6.

## Analysis

In her sole issue on appeal, appellant challenges the jurisdiction of the 184th District Court to convict and sentence her. Appellant argues that, “[u]nder Texas law, the grand jury for the 177th District Court had no authority to present an indictment to a second, different, district court.” Appellant’s argument ignores the great weight of authority to the contrary.

A district court impanels a grand jury and empowers it to consider indictable offenses. *See* Tex. Code Crim. Proc. art. 20.19; *Davis v. State*, No. 01-16-00079-CR, 2017 WL 1281426, at \*2 (Tex. App.—Houston [1st Dist.] Apr. 6, 2017, no pet.) (citing *Ex parte Edone*, 740 S.W.2d 446, 448 (Tex. Crim. App. 1987)). The grand jury hears testimony and votes on the presentment of indictment regarding the charge given to them. *See* Tex. Code Crim. Proc. art. 20.19; *Davis*, 2017 WL 1281426, at \*2; *Edone*, 740 S.W.2d at 448. After voting, the grand jury, through the foreman, shall deliver the indictment “to the judge or clerk of the court.” Tex. Code Crim. Proc. art. 20.21. Each county has a clerk for the district courts. Tex. Const. art. V, § 9. The district clerk in each county “is the clerk of the court for all the district courts in that county.” *Ex parte Alexander*, 861 S.W.2d 921, 922 (Tex. Crim. App. 1993), *superseded by statute on other grounds as stated in Ex parte Burgess*, 152 S.W.3d 123, 124 (Tex. Crim. App. 2004).

Following presentment, the indictment is filed in a court with jurisdiction to hear the case. *Davis*, 2017 WL 1281426, at \*2; *see also Bourque v. State*, 156 S.W.3d 675, 678 (Tex. App.—Dallas 2005, pet. ref’d); *Hultin v. State*, 351 S.W.2d 248, 255 (Tex. Crim. App. 1961). All state district courts located in a single county have proper jurisdiction to decide the same cases within that county. *See* Tex. Gov’t Code § 74.094; *see also Sanchez v. State*, 365 S.W.3d 681, 685 (Tex. Crim. App. 2012); *Davis*, 2017 WL 1281426, at \*2. In counties having two or more district

courts, the judges of the courts may adopt rules governing the filing, numbering, and assignment of cases for trial, and the distribution of the courts' work as they consider necessary or desirable for the conduct of the business of the courts. Tex. Gov't Code § 24.024.

Thus, in multi-court counties, such as Harris County, a court that impanels a grand jury is not necessarily assigned to hear all cases returned by the grand jury. *Thornton v. State*, No. 05-13-00610-CR, 2014 WL 2946457, at \*3 (Tex. App.—Dallas May 6, 2014, no pet.) (mem. op., not designated for publication). One court may impanel a grand jury, and if an indictment is presented, the case may be filed in another court of competent jurisdiction within the same county. *Id.*; *see also Bourque v. State*, 156 S.W.3d 675, 678 (Tex. App.—Dallas 2005, pet. ref'd). (“Thus, although a specific district court may impanel a grand jury, it does not necessarily follow that all cases returned by that grand jury are assigned to that court.”); *Blades v. State*, No. 03-14-00634-CR, 2015 WL 4914798, at \*3 (Tex. App.—Austin Aug. 12, 2015, no pet.) (mem. op., not designated for publication) (holding that 33rd District Court of Blanco County had jurisdiction over case where indictment from another court in same county was first filed in 33rd District Court); *Cannon v. State*, No. 05-13-01109-CR, 2014 WL 3056171, at \*4 (Tex. App.—Dallas July 7, 2014, no pet.) (mem. op., not designated for publication) (“[I]n a county with two or more district courts, the court impaneling a grand jury will not necessarily, and need not, be assigned an indictment presented by that grand jury.”).

In this case, an amended indictment, adding details regarding the nature of appellant's false MDT report, was presented to the clerk of the court, as evidenced by the time stamp bearing the district clerk's name. *See State v. Dotson*, 224 S.W.3d 199, 204 (Tex. Crim. App. 2007) (fact that a signed indictment features an original file stamp of the district clerk's office is strong evidence that a returned indictment

was “presented” to the court clerk within the meaning of article 20.21). The amended indictment was “refile[d]” in the 184th District Court, though it was signed by the foreman of the grand jury impaneled by the 177th District Court. The 184th District Court had the first-filed related case. Thus, the indictment’s return to the 184th District Court conferred that court’s jurisdiction over the indictment, since all state district courts located within one county have proper jurisdiction to decide the same cases. *See Davis*, 2017 WL 1281426, at \*3 (no jurisdictional defect where indictment signed by grand jury foreman in one district court but case filed in a different district court, because both were “district courts constituted in Harris County”); *Cannon*, 2014 WL 3056171, at \*5 (after grand jury impaneled in one district court returned indictment, case was filed in different district court in the same county, which had jurisdiction to hear case and render judgment). As a result, we conclude that the record fails to demonstrate a jurisdictional defect. *Davis*, 2017 WL 1281426, at \*3. Further, because both the 177th and 184th District Courts sit in Harris County, the 184th District Court did not lose jurisdiction over the case in accepting presentment of an indictment returned by a grand jury impaneled by the 177th District Court. *Davis*, 2017 WL 1281426, at \*4; *Bourque*, 156 S.W.3d at 678; Tex. Gov’t Code § 74.094.

Accordingly, we reject appellant’s argument that the 184th Judicial District Court was divested of jurisdiction when presented with an indictment prepared by a grand jury impaneled in the 177th District Court. *See Hernandez v. State*, No. 01-15-00837-CR, 2017 WL 1416877, at \*2 (Tex. App.—Houston [1st Dist.] Apr. 20, 2017, no pet.) (mem. op., not designated for publication); *Davis*, 2017 WL 1281426, at \*2; *Hernandez v. State*, 327 S.W.3d 200, 204 (Tex. App.—San Antonio 2010, pet. ref’d); *Bourque*, 156 S.W.3d at 678.

We overrule appellant’s sole issue.

## **Conclusion**

We affirm the trial court's judgment.

/s/ Kevin Jewell  
Justice

Panel consists of Justices Boyce, Donovan, and Jewell.  
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