

**Affirmed and Majority and Dissenting Opinions filed August 31, 2023.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-18-00601-CR**

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**KENDRICK DWAYNE WALKER, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 338th District Court  
Harris County, Texas  
Trial Court Cause No. 1520109**

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**D I S S E N T I N G   O P I N I O N**

The facts of this case armed Appellant with two separate challenges to complainant's credibility based on her three separate convictions for crimes of moral turpitude and her findable mental health issues in previous criminal cases where she was a defendant. Standing alone, trial counsel's unwillingness to deploy either strategy under these facts does not create *Strickland* prejudice warranting a new trial based on ineffective assistance of counsel. However, we do not examine ineffective assistance of counsel claims in a vacuum; instead, we are required to

examine the entire record. *See Ingham v. State*, 679 S.W.2d 503, 509 (Tex. Crim. App. 1984) (en banc) (“Upon review of the totality of the representation, we hold that appellant has failed to demonstrate that his counsel’s actions amounted to ineffective assistance of counsel.”); *Chatham v. State*, 889 S.W.2d 345, 349 (Tex. App.—Houston [14th Dist.] 1994, pet. ref’d) (“In determining whether the *Strickland* test has been met, counsel’s performance must be judged on the totality of the representation.”).

Trial counsel withheld both discrete and distinct legal attacks despite the fact that each is based on different but well-developed rules. *See* Tex. R. Evid. 601(a)(1) (persons who are insane at the time of events are not competent to testify); Tex. R. Evid. 609(a)(1) (“Evidence of a criminal conviction offered to attack a witness’s character for truthfulness must be admitted if . . . the crime was a felony or involved moral turpitude, regardless of punishment[.]”); *see also* Tex. R. Evid. 806 (“Attacking and Supporting the Declarant’s Credibility”). Relatedly, Appellant’s trial counsel did not reasonably investigate the facts of this case or complainant’s findable mental health issues despite the centrality of her credibility to the verdict. *See* Maj. Op. at 9 (concluding Appellant suffered no prejudice as a result of his counsel’s failure to impeach the complainant because “the evidence of the assault was strong”, “[t]he complainant was intimately familiar with [a]ppellant”, and complainant “described him as her attacker”).

The majority’s analysis highlights the harm to Appellant: all three of us agree that the strongest evidence against Appellant is complainant. However, Appellant’s counsel did not attack her credibility on either of two clearly available rule-based grounds. Together, these withheld attacks prejudiced Appellant under *Strickland*, especially given the importance of complainant’s credibility to the verdict and this appeal. Therefore, I believe Appellant is entitled to a new trial and

respectfully dissent.

/s/ Meagan Hassan  
Justice

Panel consists of Justices Wise, Hassan, and Wilson (Wise, J., majority).

Publish — Tex. R. App. P. 47.2(b).