

**Affirmed and Memorandum Opinion and Memorandum Concurring Opinion  
filed December 12, 2023.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-22-00052-CR**

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**WYATT ELLIS BUSBY, 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. 1535843**

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**MEMORANDUM CONCURRING OPINION**

I concur in the judgment and join the opinion. I write separately only to point out that the trial court did not follow the procedure set out in the Code of Criminal Procedure regarding incompetency to stand trial. Tex. Code Crim. Proc. Ann. art. 46B.005. While that is error, such complaint was not preserved for appellate review. *See* Tex. R. App. P. 33.1(a)(1); *Trotti v. State*, No. 14-21-00536-CR, 2023 WL 5208815, at \*8–9 (Tex. App.—Houston [14th Dist.] Aug. 15, 2023, pet. filed)

(Spain, J., dissenting) (discussing competency determinations and structural error).

/s/ Charles A. Spain  
Justice

Panel consists of Chief Justice Christopher and Justices Spain and Hassan (Christopher, C.J., majority).

Do Not Publish — Tex. R. App. P. 47.2(b).