**Affirmed and Opinion and Concurring Opinion filed August 29, 2023**

**In The**

# Fourteenth Court of Appeals

**NO. 14-22-00319-CR**

**MICHAEL DEAN MUIRHEID, Appellant**

**V.**

**STATE OF TEXAS, Appellee**

**On Appeal from the 239th District Court**
**Brazoria County, Texas**
**Trial Court Cause No. 87287-CR**

## OPINION

A jury convicted appellant Michael Dean Muirheid of murder and sentenced him to serve 75 years in prison. *See* Tex. Penal Code Ann. § 19.02. Appellant appeals his conviction in a single issue making multiple arguments arising out of the trial court's exclusion of evidence. We affirm.[1]

[1] Chief Justice Christopher and Justice Poissant join only sections II and III of this opinion.

## BACKGROUND

There was a fundraising cook-off for the Damon Little League on March 1, 2019. Danny Vega, the complainant, and his wife Luz Ortega attended the cook-off. According to Luz, they took an ice chest of beer to the cook-off and they "had a few beers" while there. Luz testified during appellant's trial that she drank the same amount of beer that night as Vega. Vega and Luz eventually left the cook-off with Vega driving his truck. According to Luz, their route home took them past appellant's property. Luz testified Vega drove home "real slow" to give her time to finish her beer. While passing appellant's home, they heard yelling and then someone threw something at Vega's truck. Vega slammed on his brakes and yelled back. Vega then "took off fast" and drove toward their home.

That same night Courtney Burns was playing video games at her home, which was down the street from Vega's house. Burns eventually went to sleep but was awakened by two loud boom noises that sounded like gunshots. Burns laid back down but she then heard screaming. Burns went outside where she saw Luz screaming over a body. Burns called 9-1-1.

In the early morning hours of March 2, 2019, the Brazoria County Sheriff's Office responded to a call about a shooting in the Damon area. The responding deputies found Vega's body on the ground along with shell casings and unfired ammunition. There was a small crowd of people gathering. When the deputies arrived they found Luz crying near Vega's body. The responding deputies began taking statements from the people on the scene and they determined, based on those statements, that appellant was the suspected shooter.

An autopsy later revealed that Vega died of a single gunshot wound to the torso and that he had a .16 blood-alcohol concentration, twice the legal limit. The medical examiner also concluded that Vega's fatal wound was consistent with the

muzzle of the weapon having been against or very close to Vega's skin when it was fired.

Appellant turned himself into Brazoria Police Department Detective Dawne Moore, who was known to members of appellant's family. Moore testified it was her understanding that appellant was turning himself in because he believed the Brazoria County Sheriff's Department "was looking for him for killing someone." When appellant arrived at the Brazoria Police Department station, some two hours after the Vega shooting, appellant told Moore that he had heard a shot as he was driving away from the scene of a confrontation with Vega. Appellant also told Moore that Vega had hit the hood of his Cadillac with a chain. Moore notified the Brazoria County Sheriff's Department that appellant had turned himself in. Two deputies eventually arrived and they immediately bagged appellant's hands.

Investigator Jerome Griffin of the Brazoria County Sheriff's Department interviewed appellant about the Vega shooting. The interview was recorded and admitted into evidence during appellant's trial. Appellant told Griffin that appellant's girlfriend and Vega had a son together. Appellant also told Griffin that Vega had tried to back his vehicle into him at appellant's house. Appellant said that Vega was also yelling at him. Appellant explained that he drove after Vega in his Cadillac. Appellant said that he briefly talked to Luz and she told him that Vega was "super-drunk." Appellant stated that Vega got a chain out of his truck and struck appellant's car with it. Appellant claimed that he then got back in his vehicle and drove back to his house, where he picked up his wife. According to appellant, they then drove to the Brazoria Police Department. Appellant told Griffin he had never shot a gun in his life and would not know how to shoot one. Finally, appellant told Griffin that his friend, Jeffery Steinocher, who had accompanied him in the Cadillac, had gotten out of the Cadillac when it stopped

near Vega's house and had walked away from the scene. Appellant explained that he left the scene without Steinocher, and that he did not know Steinocher's whereabouts after he drove away from the scene.

Law enforcement never recovered the firearm used to shoot Vega. A gunshot-residue analysis performed on appellant's clothes that he wore when he turned himself into the Brazoria Police Department revealed gunshot primer residue particles on the back and front of appellant's jeans. This residue was consistent either with appellant being in the immediate proximity of a weapon as it was fired, or coming into contact with a surface containing gunshot primer residue particles. Courtney Burns testified during appellant's trial that she had seen appellant with a holstered gun several months before the murder.

Appellant's counsel addressed the issue of self-defense during voir dire. Later, during his opening statement, appellant's counsel asserted that Luz's eyewitness testimony would be inconsistent with other evidence admitted during the trial. Appellant's counsel also pointed out during opening statement that Steinocher, who rode with appellant after Vega's truck and witnessed the shooting, had disappeared for a significant length of time after the murder and had not initially cooperated with law enforcement.

Numerous witnesses testified during appellant's trial, including Steinocher. Steinocher testified that Vega pulled up to appellant's house in his truck, spinning his tires, and yelling obscenities. Steinocher testified that, when Vega drove away, a visibly-angry appellant and Steinocher got in appellant's Cadillac and found Vega's truck a street away. Steinocher stated that Vega attempted to run appellant over with his vehicle, at which point Steinocher saw appellant had a firearm. Steinocher saw Vega get out of his truck with a chain in his hand and he then heard a gunshot. He then saw Vega come toward appellant swinging the chain, sending

sparks from the pavement. Steinocher saw the chain strike appellant's Cadillac. Steinocher testified that he got in and drove the Cadillac between Vega and appellant. According to Steinocher, Vega then moved toward appellant with his head down like he was going to tackle appellant. Steinocher saw appellant bring the firearm down against Vega's back and shoot him. When he heard that gunshot Steinocher retreated, leaving the scene on foot.

According to Steinocher, he returned to appellant's home, got his dogs and wife, and they got in their vehicle and left. Steinocher testified they drove to appellant's cousin's home where appellant and appellant's girlfriend eventually joined them. While at the cousin's house, appellant asked Steinocher to take responsibility for the shooting, which Steinocher refused to do. After appellant left to turn himself in, Steinocher and his wife drove to appellant's uncle's home. They remained there until they knew the result of appellant turning himself in to the police. They then left the county and travelled to Steinocher's hometown, Rosenberg. They then travelled to Stockdale, Texas. Steinocher admitted during appellant's trial that he had been previously convicted of aggravated assault with a deadly weapon. During Steinocher's trial testimony, the State granted Steinocher "use immunity," which meant that, with limited exceptions, the State could not use his trial testimony against him in any future prosecution.

Vega's wife Luz also testified. Luz testified that after they left appellant's property they drove toward their own home. As they got closer to their house, Luz saw a red Cadillac coming straight at them. Luz testified that Vega swerved his truck and then drove into their own front yard. Luz saw someone get out of the Cadillac. Luz had difficulty getting out of the truck[2] and she looked out of the truck's back window where she saw appellant with a gun in his hand. Luz then

[2] At the time of the murder Luz wore a back brace and used a cane.

heard a gunshot.

According to Luz, Vega jumped out of the truck and ducked behind it. Luz saw appellant waving the gun in the air. She then saw Vega grab a chain from the back of his truck and start swinging it at appellant's hand while yelling at appellant to "fight him like a man." As Luz finally got out of the truck, she saw Vega follow appellant up the hill and away from her. Luz saw an unknown person who had gotten out of the passenger side of the Cadillac, get back in and drive the Cadillac toward Vega and appellant. She then saw Vega swing the chain again toward appellant's hand holding the gun, but she did not see if it made contact. Luz yelled at Vega to come back. Luz saw Vega turn around and begin walking back toward her. At that point, Luz heard another gunshot and she saw Vega fall to the ground. It was not until Vega fell that Luz saw appellant holding a gun. Luz estimated the distance between appellant and Vega was between six to ten feet. Luz saw appellant run back to the Cadillac, get in the driver's seat, and drive away.

During appellant's cross-examination of Luz, appellant's counsel approached the bench and asked to be allowed to inquire into whether Luz had a potential bias against appellant because appellant's girlfriend, Anita Foraker, allegedly made false statements to a parole officer that led to Vega going to prison. The trial court instructed appellant that he could get into aspects of this relationship, but told him to stay away from the fact that Vega had served time in prison.

Back in front of the jury, appellant's counsel asked Luz when Foraker, Luz's cousin, had a child with Vega. Luz responded, "After [Vega] was released from prison." The trial court sua sponte directed appellant's counsel to ask his next question. The following exchange then occurred:

[Defense Counsel]: Did [Vega] interact with the child much?

[Luz]: As much as he could.

[Defense Counsel]: Okay. Was that frequently or infrequently?

[Luz]: When he was allowed to.

[Defense Counsel]: Okay. Was there bad blood between you and—and your cousin?

[Luz]: Me and my cousin?

[Defense Counsel]: Uh-huh. Anita.

[Luz]: We didn't speak like often or anything.

[Defense Counsel]: You were mad because she dated Danny. Right?

[Luz]: No.

[Defense Counsel]: You weren't mad about that?

[Luz]: No. I went on with my life.

[Defense Counsel]: Well, then you got back with Danny. Right?

[Luz]: Yes, I did.

[Defense Counsel]: And when you say you got back on with your life, what were you doing?

[Luz]: I proceeded on with my free-world life without Danny in it. He was in jail.

[Defense Counsel]: When you say when he was allowed to see the child, who was holding the child from him, in your mind?

[Luz]: My understanding was—

[Prosecutor]: Your honor, I'm going to object to relevance.

[Trial Court]: Sustained.

[Prosecutor]: Thank you.

[Defense Counsel]: You were upset because he couldn't see the child. Right?

[Luz]: Pardon me?

[Defense Counsel]: You were upset because he couldn't see the child?

| | |
|---|---|
| [Prosecutor]: | I'm going to object to relevance, your Honor. 404. |
| [Trial Court]: | Sustained. |
| [Prosecutor]: | Thank you. |
| [Defense Counsel]: | Was there a regular visitation schedule? |
| [Ortega]: | No. |
| [Defense Counsel]: | You didn't do like first, third, and fifth weekends? |
| [Ortega]: | No. |
| [Defense Counsel] | Did he pay child support? |
| [Ortega]: | No, sir. |
| [Defense Counsel]: | He didn't pay any child support? |

At that point, the State approached the bench and objected to any further testimony regarding child support, which the trial court sustained.

Appellant made an offer of proof outside the presence of the jury following the trial testimony of Veronica Rodriguez.[3] During the offer of proof Rodriguez testified Steinocher was abusive toward her at the time of the murder; that he had pointed a BB gun at her; had threatened her; and had previously assaulted her, breaking her ribs. Rodriguez further testified that Steinocher could be intimidating. Appellant then argued:

> it's not necessarily we're trying to put on character evidence of Jeffery Steinocher to - - to establish conformity therewith of him committing the murder. We're trying to put on his - - the evidence of his character because it's - - it's in conjunction or it's - - it's consistent with his almost modus operandi where he has a habit of being this type of person and the evidence that's been presented is that there was a struggle between two people and that Jeffery Steinocher puts

[3] Steinocher identified Rodriguez as his ex-wife at the time of appellant's trial while she identified herself as his ex-girlfriend.

> himself at the scene of that struggle between two people, whoever those two people are.

Appellant concluded by asserting the proffered testimony demonstrated the "story was flipped," that it was Steinocher, not appellant, who was the aggressor at the scene of the murder. The trial court sustained the State's Rule 404(b) objection and excluded appellant's proffered testimony.

The State called Anita Foraker to testify. Foraker is appellant's girlfriend and has two children with him. She is also Luz's cousin. She testified about the incident outside appellant's home, stating that Vega stopped his truck and "just started like cussing." She confirmed that appellant and Steinocher drove away in appellant's Cadillac and appellant returned alone. Appellant picked Foraker up and they drove to appellant's cousin's house where it was decided appellant would turn himself into Moore at the Brazoria Police Department. According to Foraker, they were at the cousin's house for about 15 minutes. Krisha Muirheid, who was married to appellant's cousin, drove Foraker and appellant to the Brazoria Police Department, but they first stopped at a Buc-ee's, where they bought coffee and cigarettes.

During Foraker's cross-examination, appellant's counsel sought to elicit testimony that Foraker and Vega's child considered appellant his father and that Luz did not like that. The trial court ruled that counsel could have "some leeway" regarding the relationship without getting into prior bad acts. Foraker testified under questioning by appellant's counsel that the child considered appellant to be his father; that Luz was Foraker's cousin; and that she and Luz did not talk or have a relationship.

Appellant's uncle Barry Muirheid testified during appellant's case-in-chief that Steinocher told him the morning after the murder that he, Steinocher, had shot

somebody. Barry conceded that he had not told anyone about this conversation until a few weeks before the trial, which was about three years after Vega's murder, because he did not believe it was his place to do so.

The trial court included a lesser-included offense of manslaughter in the jury charge, as well as self-defense instructions for both murder and manslaughter. During closing argument, appellant's counsel argued that Luz's account of that evening was not supported by the medical examiner's testimony. Appellant's counsel further argued that environmental conditions the night of the murder, Luz's intoxication and medical issues, as well as the tinting on the windows of Vega's truck prevented Luz from seeing who was actually holding the gun that night. Appellant's counsel then emphasized that Steinocher had been convicted of aggravated assault; testified under a use-immunity agreement; had fled the county for two years following the murder; and had initially lied to law enforcement. The jury found appellant guilty of murder and, after appellant pleaded true to two enhancement paragraphs, sentenced him to 75 years in prison. This appeal followed.

## ANALYSIS

Appellant raises a single issue on appeal in which he argues that the trial court's evidentiary rulings violated his constitutional right to present a complete defense. Liberally construing appellant's brief, he also argues that the trial court abused its discretion when it excluded evidence appellant asserted showed (1) Luz was biased against appellant and therefore had a motive to lie about the shooting; and (2) that Steinocher was the actual shooter and he flipped the story when he testified that appellant shot Vega.

### I. Appellant did not preserve his argument on appeal that the trial court violated his constitutional right to present a complete defense.

The improper exclusion of evidence may raise constitutional concerns: (1) when an evidentiary rule categorically and arbitrarily prohibits the defendant from offering relevant evidence that is vital to his defense; or (2) when a trial court erroneously excludes evidence that is vital to the case, and the exclusion denies the defendant a meaningful opportunity to present a complete defense. *Ray v. State*, 178 S.W.3d 833, 835 (Tex. Crim. App. 2005); *see Anderson v. State*, 301 S.W.3d 276, 280 (Tex. Crim. App. 2009) (stating that the constitutional right to a meaningful opportunity to present a complete defense stems from the Due Process Clause of the Fourteenth Amendment and the Compulsory Process and Confrontation Clauses of the Sixth Amendment). The Court of Criminal Appeals has stated, however, that erroneous evidentiary rulings rarely rise to the level of denying a fundamental constitutional right to present a meaningful defense. *Wiley v. State,* 74 S.W.3d 399, 405 (Tex. Crim. App. 2002). A constitutional violation occurs when the trial court's clearly erroneous ruling excludes otherwise relevant, reliable evidence that forms such a vital portion of the case as to preclude the defendant from presenting a defense. *Id.*

To preserve a complaint for appellate review, the record must show that the complaint was presented to the trial court "with sufficient specificity to make the trial court aware of the complaint, unless the specific grounds were apparent from the context." Tex. R. App. P. 33.1(a)(1)(A). "Under this rule, an objection must be both timely and specific, alerting the trial court to any and every legal basis upon which the appellant should desire to predicate a claim later on appeal." *Leza v. State*, 351 S.W.3d 344, 361 n.67 (Tex. Crim. App. 2011). To complain about the exclusion of certain evidence on appeal, therefore, an appellant must demonstrate that he preserved his argument by offering the evidence during trial, and by making the trial court aware of the substance of the evidence and the basis

for its admission. *See* Tex. R. App. P. 33.1; Tex. R. Evid. 103(a)(2); *Leza*, 351 S.W.3d at 360–61. Even constitutional errors may be waived by failing to timely complain in the trial court. *See Broxton v. State*, 909 S.W.2d 912, 918 (Tex. Crim. App. 1995); *Wright v. State*, 374 S.W.3d 564, 575–76 (Tex. App.—Houston [14th Dist.] 2012, pet. ref'd). If an issue has not been properly preserved for appeal, a reviewing court should not address the merits of that issue. *Ford v. State*, 305 S.W.3d 530, 532 (Tex. Crim. App. 2009). In fact, it is the duty of this court to ensure that a claim is preserved in the trial court before addressing its merits. *See Wilson v. State*, 311 S.W.3d 452, 473 (Tex. Crim. App. 2010) (court of appeals should review preservation of error on its own motion).

The record reflects that although appellant made several arguments regarding why this evidence should be admitted, he made no argument during trial that exclusion of this evidence violated his constitutional right to present a complete defense. In other words, appellant did not alert the trial court that its evidentiary rulings would violate any of his constitutional rights.[4] We therefore

[4] The concurrence asserts that by holding appellant did not preserve his constitutional issue for appellate review we "fault trial counsel with waiver of an argument." The concurrence possibly overstates the impact of a determination that appellant's constitutional argument was not preserved because "preservation of error is a systemic requirement." *Darcy v. State*, 488 S.W.3d 325, 327 (Tex. Crim. App. 2016); *see Golliday v. State*, 560 S.W.3d 664, 670 (Tex. Crim. App. 2018) ("Parties are not permitted to bootstrap a constitutional issue from the most innocuous trial objection, and trial courts must be presented with and have the chance to rule on the specific constitutional basis for admission because it can have such heavy implications on appeal.") (Internal quotations omitted); *Reyna v. State*, 168 S.W.3d 173, 177 (Tex. Crim. App. 2005) (stating that Texas Rule of Appellate Procedure 33.1 and Texas Rule of Evidence 103 are judge protecting rules of error preservation). The Court of Criminal Appeals has also instructed the intermediate courts of appeal to sua sponte determine whether an issue on appeal has been preserved. *See Wilson*, 311 S.W.3d at 473. The record here indicates that this was a hotly contested case and by all appearances appellant's trial counsel zealously represented him during the trial. By determining, as we are required to do, that the constitutional argument raised on appeal was not preserved, we cast no aspersions on trial counsel because there is nothing in the record establishing why trial counsel, who are not representing appellant on appeal, chose not to make a constitutional challenge to the trial court's evidentiary decisions. It could be they recognized that they had the opportunity to present multiple defensive theories to the jury even in

conclude appellant failed to preserve this issue for appellate review. *See Golliday v. State*, 560 S.W.3d 664, 671 (Tex. Crim. App. 2018) ("Appellant did not clearly articulate a constitutional basis supporting the admission of the excluded evidence at trial. Consequently, he did not preserve a constitutional claim for appeal. Accordingly, we reverse the judgment of the court of appeals and remand to the court of appeals for consideration of Appellant's remaining points of error."); *Rodriguez v. State*, 368 S.W.3d 821, 826 (Tex. App.—Houston [14th Dist.] 2012, no pet.) (holding defendant did not preserve constitutional claim because defendant waited until appeal to argue trial court's exclusion of defensive evidence violated his constitutional right to present a complete defense). We overrule this part of appellant's issue on appeal.

## II. The trial court did not abuse its discretion when it excluded evidence appellant argued established Luz was biased.

Appellant next argues on appeal that the trial court abused its discretion when it excluded evidence appellant believed established that Luz was biased against appellant which provided her a motive to lie about the identity of the shooter. To establish that Luz was biased, appellant sought to admit evidence of a contentious relationship between Luz and her cousin, Anita Foraker. In appellant's view, the relationship became contentious because Luz believed Foraker was responsible for sending Vega to prison based on a false statement and also because Foraker prevented Vega from seeing his child with Foraker. Appellant argues that

---

the face of the trial court excluding some of appellant's proffered evidence and therefore chose not to make such an objection. We would be engaging in impermissible speculation to conclude the failure to make such an objection was an oversight by appellant's trial counsel rather than a strategic choice consciously made. *See Lopez v. State*, 343 S.W.3d 137, 143 (Tex. Crim. App. 2011) (stating that trial counsel's "deficiency must be affirmatively demonstrated in the trial record" and "the court must not engage in retrospective speculation" and if "such direct evidence is not available, we will assume that counsel had a strategy if any reasonably sound strategic motivation can be imagined.").

the trial court abused its discretion when it excluded this evidence because it was relevant to show that Luz was sufficiently biased against Foraker that she was willing to lie about appellant shooting Vega.

We review a trial court's decision to exclude evidence for an abuse of discretion. *See Henley v. State*, 493 S.W.3d 77, 82–83 (Tex. Crim. App. 2016). Under this standard, we may not reverse a judgment unless we believe that the trial court's ruling was so clearly wrong as to lie outside the zone within which reasonable people might disagree. *Id.* If the trial court's evidentiary ruling is correct on any theory of law applicable to that ruling, we will uphold the trial court's decision. *De La Paz v. State*, 279 S.W.3d 336, 344 (Tex. Crim. App. 2009). This is true even if the trial court failed to give a reason or used the wrong reason for the ruling. *Bowley v. State*, 310 S.W.3d 431, 434 (Tex. Crim. App. 2010).

Generally, a defendant may cross-examine a witness for purported bias, interest, or motive, without undue limitation. *See* Tex. R. Evid. 613(b) (providing for impeachment of witness by evidence of alleged bias or interest in favor or against a party); *Hammer v. State*, 296 S.W.3d 555, 563 (Tex. Crim. App. 2009). For impeachment evidence to be admissible, the defendant must establish a causal connection or logical relationship between the evidence and the witness's alleged bias or motive. *Johnson v. State*, 433 S.W.3d 546, 552 (Tex. Crim. App. 2014); *Crenshaw v. State*, 125 S.W.3d 651, 654 (Tex. App.—Houston [1st Dist.] 2003, pet. ref'd). Limiting a defendant's right to cross-examine a witness is within a trial court's discretion. *Hammer*, 296 S.W.3d at 561.

Here, the trial court could have reasonably concluded that whether Foraker had some role in putting Vega in prison or prevented Vega from seeing his child had no connection to whether Luz was biased against appellant. In addition, the

trial court could have reasonably found that any bias Luz had was directed only at Foraker, a person not involved in Vega's murder. *See Crenshaw*, 125 S.W.3d at 654 ("Appellant's naked allegations suggesting that Orlando and Vanessa were involved in a robbery or attempted robbery seven days prior to the date of the offense do not fairly tend to raise an inference that Orlando and Vanessa had a motive to testify falsely for the State concerning this offense."). Further, there was no evidence produced that showed Foraker had any role in Vega going to prison or that she made any effort to prevent Vega from seeing his child. As such, the trial court could have reasonably concluded that appellant's proposed testimony was speculative and therefore not relevant to any fact of consequence to the determination of the action. *See Henley*, 493 S.W.3d at 83 (describing relevant evidence). We hold that the trial court did not abuse its discretion when it excluded appellant's proposed bias testimony. We overrule this part of appellant's issue on appeal.

## III. The trial court did not abuse its discretion when it excluded evidence of Steinocher's alleged prior violent acts.

In his final argument within his single issue on appeal, appellant asserts that the trial court abused its discretion when it excluded proposed testimony by Veronica Rodriguez, summarized above, describing Steinocher's prior violent acts against her. In appellant's view, this evidence was relevant and admissible because it demonstrated Steinocher's propensity for violence and therefore supported appellant's defensive theory that Steinocher was an alternative shooter.

We review this issue under the same standard of review stated above. To be admissible, a trial court must first determine that the evidence is relevant. *Henley*, 493 S.W.3d at 83. Relevant evidence is evidence that has a tendency to make a fact more or less probable than it would be without the evidence that is also of

consequence in the action. Tex. R. Evid. 401; *Henley*, 493 S.W.3d at 83. In addition, a defendant has the right to attempt to establish his innocence by showing that someone else committed the crime. *Wiley v. State*, 74 S.W.3d 399, 406 (Tex. Crim. App. 2002). But, evidence of a person's character or character trait is not ordinarily admissible to prove that a person acted in conformity with that character trait on a particular occasion. Tex. R. Evid. 404(a)(1); *Wiley*, 74 S.W.3d at 399, 405, n.17.

Here, the State objected to admission of the proposed testimony arguing it was not relevant and was inadmissible pursuant to Rule 404 of the Texas Rules of Evidence. Appellant argued that the proposed evidence was not offered for conformity purposes, but because it was "consistent with [Steinocher's] almost modus operandi where [Steinocher has] a habit of being this type of person . . . ."

The trial court could have reasonably concluded that appellant's proposed testimony violated Rule 404(b) of the Texas Rules of Evidence because (1) appellant's argument was disingenuous, and (2) appellant did seek to admit Rodriguez's proposed testimony to prove Steinocher was the shooter because he acted in conformity with his alleged violent character that night. *See* Tex. R. Evid. 404(b) ("Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character."). We hold that the trial court did not abuse its discretion when it excluded appellant's proposed testimony by Rodriguez. *See Seidule v. State*, 622 S.W.3d 480, 491 (Tex. App.—Houston [14th Dist.] 2021, no pet.) (holding trial court did not abuse discretion when it excluded evidence of victim's prior violent acts because it was an attempt to prove character conformity, which is prohibited).

## CONCLUSION

Having overruled each of appellant Michael Dean Muirheid's arguments raised in his single issue on appeal, we affirm the trial court's judgment.

/s/ Jerry Zimmerer
Justice

Panel consists of Chief Justice Christopher and Justices Zimmerer and Poissant.
Publish — TEX. R. APP. P. 47.2(b).