

**Affirmed and Memorandum Majority and Concurring Opinions filed
August 1, 2023.**



In The

Fourteenth Court of Appeals

NO. 14-22-00322-CR

MICHAEL F. ALMODOVAR, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause No. 1669463**

MEMORANDUM CONCURRING OPINION

In appellant’s sole issue, he argues on appeal the “Trial court erred in overruling Appellant’s request for a mistrial based on the improper jury argument made by the prosecutor commenting on Appellant’s right to jury trial.” At trial, the preservation of an issue for appellate review occurred when appellant moved for a mistrial: “I’m going [to] have to move to a mistrial on that, Judge, because he just basically told the jury that my client is here — is taking this to trial because he’s

trying to avoid the prosecution. My client has a right to have a trial”

Appellant did not preserve a complaint on appeal about a trial by jury. He preserved a complaint about the suggestion that he was trying to avoid prosecution. *See* Tex. R. App. P. 33.1(a). With that understanding, I concur in this court’s judgment and join the majority opinion.

/s/ Charles A. Spain
Justice

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

Do Not Publish — Tex.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