



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-22-00692-CR

The **STATE** of Texas,
Appellant

v.

Billy **RODOLFO RAMIREZ**,
Appellee

From the 49th Judicial District Court, Webb County, Texas
Trial Court No. 2022CVK001350D1
Honorable Jose A. Lopez, Judge Presiding

Opinion by: Lori I. Valenzuela, Justice

Sitting: Irene Rios, Justice
Beth Watkins, Justice
Lori I. Valenzuela, Justice

Delivered and Filed: September 27, 2023

AFFIRMED

The State appeals the trial court's order granting Billy Rodolfo Ramirez habeas relief. We affirm.

BACKGROUND

As part of Operation Lone Star, Billy Rodolfo Ramirez, a noncitizen, was arrested for trespassing on private property in Webb County. He filed an application for writ of habeas corpus seeking dismissal of the criminal charge based on a violation of his state and federal rights to equal protection. Specifically, Rodolfo Ramirez asserted that the State of Texas was engaging in

selective prosecution because only men were being charged with misdemeanor criminal trespass. The trial court granted Rodolfo Ramirez’s requested relief, and the State appealed.

DISCUSSION

In *State v. Del Campo-Chavez*, we considered a State’s appeal from a grant of habeas relief to a male OLS defendant who sought dismissal of his misdemeanor criminal trespass charge on equal protection grounds. ___ S.W.3d ___, No. 04-22-00737-CR, 2023 WL 4916433, at *2 (Tex. App.—San Antonio Aug. 2, 2023, no pet. h.). Del Campo-Chavez argued the State selectively prosecuted him on the basis of his gender. *See id.* The State responded that the trial court lacked jurisdiction, Del Campo-Chavez’s equal protection claim based on gender was not cognizable, and Del Campo-Chavez failed to carry his burden to prove the prosecution was motivated by a discriminatory purpose. *See id.* (citing *Ex parte Aparicio*, No. 04-22-00623-CR, 2023 WL 4095939, at *1, *8–12 (Tex. App.—San Antonio June 21, 2023, pet. filed) (en banc); *Ex parte Hargett*, 819 S.W.2d 866, 869 (Tex. Crim. App. 1991), *superseded by statute on other grounds as stated in Ex parte Villanueva*, 252 S.W.3d 391, 397 (Tex. Crim. App. 2008)). Relying on *Ex parte Aparicio*, we rejected the State’s arguments and affirmed the trial court’s order. *Id.* at *2, 3.

The State’s claims in this case are identical to those we addressed in *Del Campo-Chavez*. For the reasons described in that opinion, and in *Ex parte Aparicio*, we affirm the trial court’s order granting habeas relief.

Lori I. Valenzuela, Justice

DO NOT PUBLISH