



**IN THE  
TENTH COURT OF APPEALS**

**No. 10-17-00171-CR**

**JUAN RODRIGUEZ GUAJARDO,**

**Appellant**

**v.**

**THE STATE OF TEXAS,**

**Appellee**

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**From the 54th District Court  
McLennan County, Texas  
Trial Court No. 2014-1196-C2**

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**MEMORANDUM OPINION**

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Juan Rodriguez Guajardo was convicted of continuous sexual abuse of a young child (Count I) and indecency with a child by contact (Count II). The jury assessed Guajardo's punishment at life imprisonment for Count I and twenty years' imprisonment for Count II. The sentences were ordered to run concurrently. This is the appeal of his continuous-sexual-abuse-of-a-young-child (Count I) conviction.

In his sole issue, Guajardo contends that the continuous-sexual-abuse statute—Texas Penal Code section 21.02—is facially unconstitutional. Guajardo acknowledges

that he is raising a facial challenge to the constitutionality of a statute for the first time on appeal and that, under existing law, this is not permitted.<sup>1</sup> The State agrees.

Guajardo is correct in his assessment of the current state of the law in Texas. The Court of Criminal Appeals has held that a defendant may not raise for the first time on appeal a facial challenge to the constitutionality of a statute. *Karenev v. State*, 281 S.W.3d 428, 434 (Tex. Crim. App. 2009). Further, preservation of error is a systemic requirement on appeal, and if an issue has not been preserved for review on appeal, as in this case, we should not address the merits of the issue. *Ford v. State*, 305 S.W.3d 530, 532 (Tex. Crim. App. 2009).

Guajardo's facial challenge to the constitutionality of the continuous-sexual-abuse statute is not preserved for our review. Accordingly, we overrule Guajardo's sole issue and affirm the trial court's judgment as to Count I.<sup>2</sup>

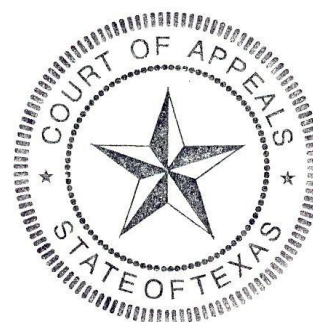
REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Neill

Affirmed

Opinion delivered and filed February 19, 2020

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[CRPM]



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<sup>1</sup> Guajardo raises the issue to preserve his complaint for potential review by the Court of Criminal Appeals.

<sup>2</sup> See, e.g., *Pruitt v. State*, No. 10-15-00033-CR, 2016 WL 555957, at \*1 (Tex. App. – Waco Feb. 11, 2016, pet. ref'd) (mem. op., not designated for publication).