

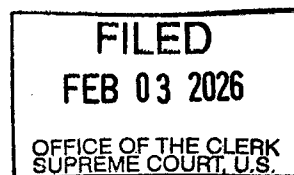
USAP 5 25-50524
Supreme Court of The United States

Carbajal
Petitioner

V.

26-5145

Guerrero Dir. TDCJ ID
Respondant.



Petition Writ of Certiorari Writ

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Paso County Judge

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On Petition For Writ of Certiorari

Petitioner

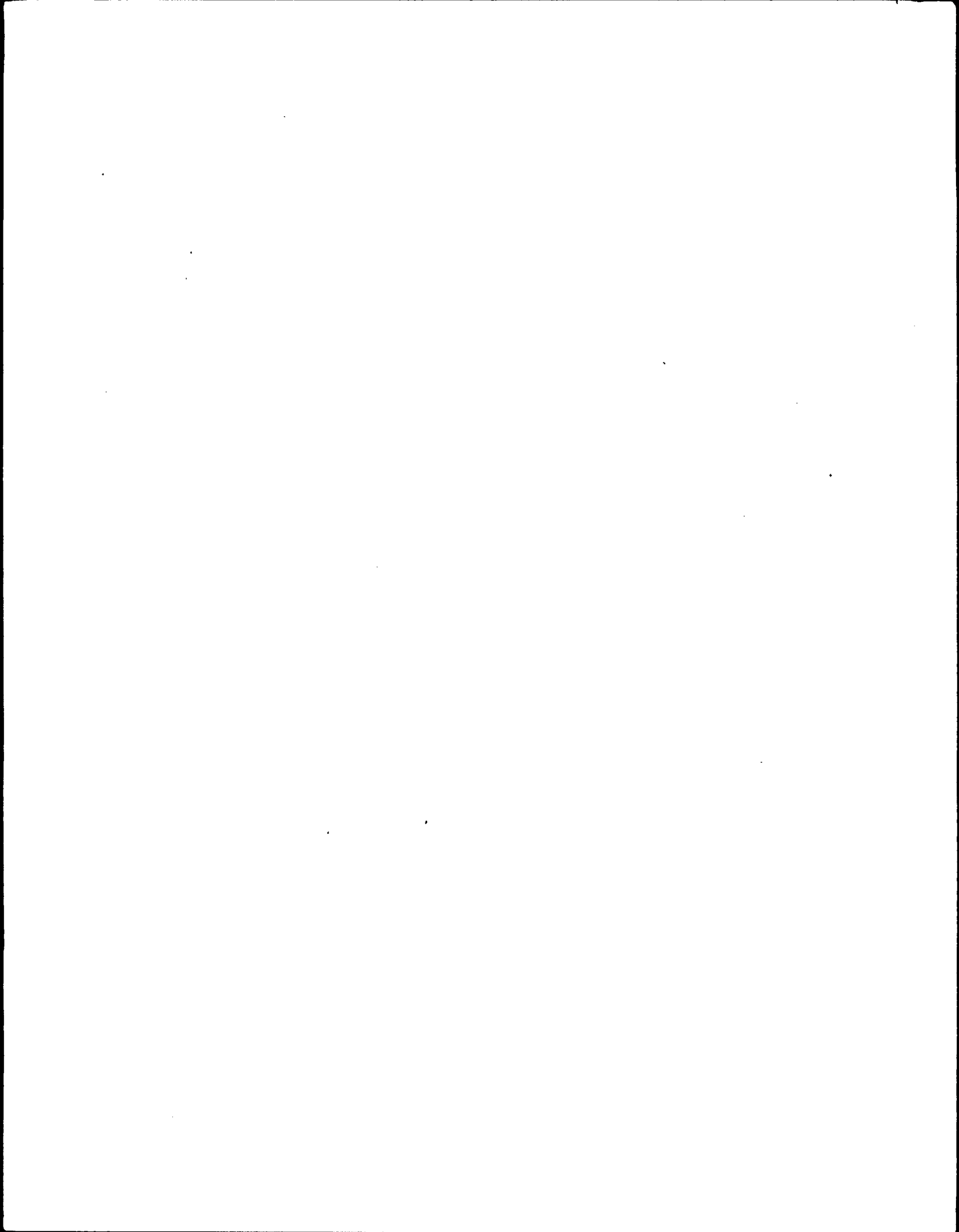
Jorge Carbajal

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Question

Did Texas constitutionally enact Penal Code 21.02 where the conviction rest on a generalize unanimity verdict and not on a specific criminal act rendering a jury's duty as unanimous fact finders to a specific criminal acts beyond reasonable doubt void?

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List of All Parties to the Proceedings

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Appendix A: Denial

Appendix B: U.S. Dist. opinion

Appendix C: Eight Court of Appeal opinion

Certificate of Compliance 23

Citation of the official and unofficial reports of opinions and orders entered in case. 2A,B

Table of Authorities used in argument

Richardson v. United States 526 US 813 (1999)
Schad v. Arizona 501 US 624 (1991)
Apprendi v. New Jersey 530 US 466 (2000)
In re Winship 397 US 358 (1970)
Ramos v. Louisiana 590 US 83 (2020)
Clark v. Thaler 673 F.3d 410 (2012)
Eg People v. Gear Cal 4th 86, 89-94, 23 Cal R PTR
2d, 261, 263-267 (1997)
Carbajal v. Guerrero 2025 US Dist. Lexis
115036 (Western Dist. 2025)
State v. Rabago 103 Haw 236, 81 P.3d 1151 (2003)
Carbajal v. State 659 SW3d 164 (Tex. App. El Paso
Apr. 30, 2022)
Render v. State 316 SW3d 846 (Tex. Crim. App. 2010)
Ladrian v. State 268 SW3d 532, 533 (Tex. Crim. App.
2008)

Table of Authorities used in argument

Richardson v. United States 296 U.S. 813 (1935)
 Schuyler v. Arizona 301 U.S. 484 (1931)
 Abbott v. Newberry 230 U.S. 429 (1912)
 In re Winship 397 U.S. 358 (1970)
 Ramos v. Louisiana 390 U.S. 56 (1968)
 Clark v. Thayer 313 F.3d 1010 (2012)
 Ex parte v. Gear (1880) 80 F.3d 939 (1880)
 29, 26, 23-25 (1991)
 Corbin v. Western Dist. 2022
 115036 (Western Dist. 2022)
 State v. Baraboo 103 Ham 230, 81 F.3d 1121 (2023)

Citations of the official and unofficial reports of opinions, and order entered in cases.

1. Carbajal V. State 659 SW3d 164, 2022 Tex. App. Lexis 5623, 2022 Lx 98814 (Tex. App. El Paso, Aug 5, 2022)
 - A. Opinion (Court of Appeal Eight District) opinion
2. In re Carbajal 2022 Tex. Crim. App. Lexis 802 (Tex. Crim. App. Nov. 9, 2022)
 - A. No known orders enter
3. Carbajal V. Guerrero 2025 Dist. Lexis 115036, 2025 Lx 173874, 2025 WL 169938 (Western Dist. Tex. June 17, 2025)
 - A. ORDER for respondent to answer Appendix Exhibit (D)
 - B. Memorandum opinion and order Appendix Exhibit (B)
 - C. Order Appendix Exhibit (E)
4. Carbajal V. Guerrero 2025 U.S. App. Lexis 31478, 2025 Lx 579490 15th Cir. Tex. Dec 3, 2025)
Appendix Exhibit (A)

Note to this Court

Petitioner want to let this court know that the opinions of the lower courts brief; that the only

Pages sent where the one's only with an
opinion about the challenge to the Penal
code. under this case.

Jurisdiction

This Court has jurisdiction under 28 U.S.C. § 1257 (a). The judgment of the court below was entered Dec 03, 2025.

This Petition is filed within the time allowed by the Supreme Court Rule 13.

Constitutional and Statutory Provisions

U.S. Const. Amend VI

U.S. Const. Amend XIV

Texas Const. Art 1 §13

Texas Penal Code 21.02

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Statement of the Case Agreement

Texas Penal Code §21.02 ("continuous Sexual abuse of a child" (here in as TPC 21.02)) authorizes conviction based on a generalizes unanimous agreement that two or more acts of sexual abused occurred within a thirty or more day in duration, without requiring the jury to unanimously agree on which specific criminal act were committed. The question presented is whether Texas may constitutionally enact and enforce such a statute without violating the Sixth Amendment's guarantee of unanimous jury verdict and the Fourteenth Amendment's guarantee of Due Process.

Petitioner argues that TPC 21.02 is unconstitutional because it permits conviction for a "continuous course of conduct" without requiring the State to prove beyond a reasonable doubt that all jurors agreed on the same underlying criminal acts. Under due process principle, the jury must unanimously agree on the

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specific offense proven beyond reasonable doubt, not merely on a general pattern of conduct.

TPC 21.02(d) expressly states that jurors "are not required to agree unanimously on which specific act of sexual abuse were committed" so long as they unanimously agree that the defendant committed "two or more acts of sexual abuse" during a period of thirty or more day of duration. Petitioner contends that this statutory structure impermissibly treat the individual acts of sexual abuse as interchangeable "means" even though under federal constitutional law they function as elements that must be unanimously found.

Texas courts have upheld §21.02 reasoning that the statute defines a single offense that may be committed by various means.
see. *Render v. State* 316 SW3d 846 (Tex. Crim. App. 2010)
(There are over fifty challenges to this Penal Code under the Unanimity question of law)
By contracts the Supreme Court of Hawaii

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