

Affirm and Opinion Filed April 29, 2026



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-24-01044-CR

**BRYANT PEARL, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 422nd Judicial District Court
Kaufman County, Texas
Trial Court Cause No. 21-11115-422-F**

MEMORANDUM OPINION

Before Justices Clinton, Lewis and Rossini
Opinion by Justice Clinton

Bryant Pearl appeals his conviction for continuous sexual abuse of a young child. He argues (1) the evidence is insufficient to support the conviction and (2) trial counsel provided ineffective assistance of counsel. In this memorandum opinion, we affirm the trial court's judgment. *See* TEX. R. APP. P. 47.4.

Background

Melody told the jury she met Pearl, her stepfather, when she was six years old and called him “Daddy.”¹ Melody testified that when she was twelve years old, Pearl “did some things to me.” Pearl would enter her bedroom at night and tell her to pull down her pants. When she did so, Pearl would put his penis in her “butthole.” Pearl’s doing so hurt and Pearl would stop when Melody’s mother took a break from working in another room. Pearl also abused her in the house’s master bedroom. There, Pearl would tell Melody to get on the floor, pull down her pants, and “put his penis in [her].” Melody further testified Pearl would pull down his pants so she could see his penis and would put it in her “butthole.” Additionally, Pearl put his mouth inside her vagina once.

Melody testified Pearl abused her “probably like five times.” Almost all the abuse occurred at the home in which Melody and Pearl lived in Forney, Texas. The abuse began when she was twelve years old and lasted “[m]ore than thirty days.” Melody was sure the abuse lasted more than a thirty-day period and stopped by late November 2021, when she was thirteen years old.

A sexual assault nurse examiner (SANE) testified she examined Melody in December 2021 at Kaufman Presbyterian Hospital and made a forensic record. The

¹ In this Court, Pearl and the State refer to the child complainant as Melody, a pseudonym. We follow that practice in this memorandum opinion.

nurse's record showed Melody was born July 10, 2008, and was thirteen years old when examined. She testified Melody told her as follows:

I was in Forney. I can't remember a lot. Um, I don't know when it was. I was going to be my granny's. I was going to my granny's house. It happened in my house. I just don't like to talk about it. It was my stepdad Pearl. I'm trying to remember. Um, I used to get my phone [taken] and I used to try to get it back. And he said the only way I could get it back is if I let him touch my private parts. And I just left. Um, then another time he stuck his private part in me. And ever since that, then I started having this juice-like stuff come out of my private, and it burns when I pee sometimes. I can't remember a lot of stuff, you know.

In response to follow-up questions, Melody told the nurse (1) it happened many times, (2) the last time it happened was in her room in approximately August 2021, (3) Pearl "would put it in my booty hole too," (4) Pearl put his mouth on her "private in the front," (5) it happened "lots" of times," (6) Pearl did not use a condom, and (7) the abuse caused bleeding and pain in her vagina. The nurse testified Melody identified the perpetrator as Pearl. The nurse recommended testing for gonorrhea and chlamydia and an evaluation of the vaginal discharge. She discussed diagrams of human bodies on which Melody drew circles to indicate where Pearl touched her and with what part of his body. The nurse testified Melody circled on the diagram of a female body what she called the breasts, the vagina and the butt. On the diagram of the male body, labeled "Pearl," Melody circled the mouth, both hands and the penis. The nurse did not observe trauma to Melody's body but stated there can be sexual assault without physical damage to the vagina. She testified estrogen causes the vagina to become flexible and stated the vagina is

very vascularized and heals very quickly without scarring. The nurse concluded Melody was sexually abused based on Melody's patient history. On re-cross examination the nurse said no one told her whether someone other than Pearl had also abused Melody but testified that fact would not have made a difference to her conclusions.

On cross-examination, Melody admitted to telling her grandmother and auntie at the same time as her outcry against Pearl, that her brother L.W. had sex with her when she was seven or eight. She could not remember how many times it happened. All she could state was that it happened "a lot." Melody did not tell the nurse or law enforcement about L.W.'s abuse, but did tell the forensic interviewer.

The jury convicted Pearl of continuous sexual abuse of a child, and the trial judge assessed punishment. Pearl filed a notice of appeal, and this appeal followed.

Sufficiency of the Evidence

In his first issue on appeal, Pearl argues the evidence was insufficient to find he committed two or more offenses of sexual abuse within a thirty-day period.² We overrule this issue.

Standard of Review:

When we review a challenge to the sufficiency of the evidence, we review all of the evidence in the light most favorable to the prosecution and determine whether

² Although Pearl refers to factual and legal sufficiency, the Court of Criminal Appeals abandoned the factual sufficiency standard in criminal cases. *See Brooks v. State*, 323 S.W.3d 893, 911 (Tex. Crim. App. 2010). We therefore proceed with a review on legal sufficiency.

any rational trier of fact could have found the essential elements of the charged offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Brooks v. State*, 323 S.W.3d 893, 912 (Tex. Crim. App. 2010). We consider all of the evidence admitted at trial, including evidence that might have been improperly admitted. *Meza v. State*, 706 S.W.3d 914, 920 (Tex. App.—Dallas 2024, pet. ref'd). We defer to the factfinder's role as the sole judge of the witnesses' credibility and the weight their testimony is to be given. *Id.* This standard is deferential and accounts for the factfinder's duty to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *Id.* We may not reevaluate the weight and credibility of the evidence to substitute our judgment for that of the factfinder's. *Id.* If the record supports conflicting inferences, we presume the factfinder resolved the conflicts in favor of the verdict, and we defer to that determination. *Id.*

The evidence need not directly prove the defendant's guilt. *Id.* Circumstantial evidence is as probative as direct evidence in establishing the defendant's guilt, and circumstantial evidence alone can be sufficient to establish guilt. *Id.* at 920–21. Each fact need not point directly and independently to the defendant's guilt if the cumulative force of all incriminating circumstances is sufficient to support the defendant's conviction. *Id.* at 921. In evaluating the sufficiency of the evidence, we must consider the cumulative force of all the evidence. *Id.*

Applicable Law:

A person commits the offense of continuous sexual abuse of a young child if, relevant to this case, during a period that is thirty or more days in duration, he commits two or more acts of sexual abuse and at the time of the commission of each act of sexual abuse, the actor is seventeen years of age or older and the victim is a child younger than fourteen years of age. TEX. PENAL CODE § 21.02(b). “Act of sexual abuse” includes the offenses of aggravated sexual assault and indecency with a child by contact. *Id.* § 21.02(c)(2), (4); *see also id.* § 22.021(a)(1)(B)(i); § 21.11(a)(1). A person commits aggravated sexual assault of a child if, regardless of whether the person knows the age of the child at the time of the offense, he knowingly or intentionally causes the penetration of a child’s anus or sexual organ by any means, and the child was younger than fourteen years of age. *Id.* § 22.021(a)(1)(B)(i). A person commits indecency with a child by contact, when that person engages in sexual contact with the child, who was younger than 17 years of age. *Id.* § 21.11(a)(1). Sexual contact means, with the intent to arouse or gratify the sexual desire of any person, any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of the child. *Id.* § 21.11(c)(1).

Child victims of sexual abuse cannot be expected to testify with the same clarity and ability that is expected of mature and capable adults. *Meza*, 706 S.W.3d at 921. Therefore, the Legislature created the offense of continuous sexual abuse of a child in response to a need to address sexual assaults against young children who

are normally unable to identify the exact dates of the offenses when there are ongoing acts of sexual abuse. *Id.* The testimony of a child victim alone is sufficient to support a conviction for continuous sexual abuse of a child. *Id.*; *see also* TEX. CODE CRIM. PROC. ANN. art. 38.07. Corroboration of the victim’s testimony by medical or physical evidence is not required. *Meza*, 706 S.W.3d at 921.

In proving continuous sexual abuse of a child, the State is not required to prove exact dates, but rather that two or more acts of sexual abuse occurred over a period of thirty or more days. PENAL § 21.02(d); *see also* *Dixon v. State*, 201 S.W.3d 731, 736 (Tex. Crim. App. 2006). Further, the jury is not required to agree unanimously on which specific acts of abuse or the exact date when those acts were committed. *Id.*; *Gutierrez-Montero v. State*, No 05-18-00132-CR, 2018 WL 6167836, at *2 (Tex. App.—Dallas Nov. 26, 2018, no pet.) (mem. op., not designated for publication).

Analysis:

Pearl makes three arguments that the evidence is insufficient to support the verdict. First, he argues the evidence was insufficient to support a rational conclusion that the acts of sexual abuse occurred for a period of thirty or more days. The statute defines the period as “a period that is thirty or more days in duration.” PENAL § 21.02(d). Melody testified she was sure the sexual abuse lasted “[m]ore than 30 days.” She stated the abuse started when she was twelve years old and ended in November 2021 when she was thirteen. The nurse testified Melody was born in July.

Pearl argues Melody’s testimony was vague and would lead a rational juror to speculate to the dates when these incidents occurred. Neither the statute nor this Court requires child victims to be specific about dates abuse occurred. *See id.*; *Montero v. State*, No. 05-18-01281-CR, 2019 WL 3229170, at *2 (Tex. App.—Dallas July 18, 2019, no pet.) (mem. op., not designated for publication); *see also Meza*, 706 S.W.3d at 921. The jury may believe all, some, or none of a witness’ testimony. *Garcia v. State*, 667 S.W.3d 756, 762 (Tex. Crim App. 2023). Additionally, the reviewing court evaluates the testimony in the light most favorable to the verdict. *Id.* at 761. Therefore, Melody’s testimony sufficiently addressed the statute’s thirty-day time element. *See* PENAL § 21.02(d).

Second, Pearl argues that there was insufficient evidence that he committed two or more acts of sexual abuse. The relevant portions of Pearl’s indictment read as follows:

Bryant Pearl, hereinafter styled Defendant, did then and there, during a period that was 30 or more days in duration, namely from on or about January 1, 2019 through November 25, 2021, when the defendant was 17 years of age or older, commit two or more acts of sexual abuse against a child younger than 14 years of age, namely

Intentionally and knowingly cause the penetration of the sexual organ of Melody (a pseudonym), a child who was younger than 14 years of age, by defendant’s sexual organ;

Intentionally and knowingly cause the penetration of the sexual organ of Melody (a pseudonym), a child who was younger than 14 years of age, by defendant’s mouth;

Intentionally and knowingly cause the penetration of the sexual organ of Melody (a pseudonym), a child who was younger than 14 years of age, by defendant's finger;

Intentionally and knowingly cause the penetration of the anus of Melody (a pseudonym), a child who was younger than 14 years of age, by defendant's sexual organ;

Intentionally and knowingly cause the penetration of the anus of Melody (a pseudonym), a child who was younger than 14 years of age, by defendant's finger;

With the intent to arouse or gratify the sexual desire of the defendant, cause Melody (a pseudonym), hereafter styled the complainant, a child younger than 17 years of age, to engage in sexual contact by causing the complainant to touch the genitals of the defendant; and/or

With the intent to arouse or gratify the sexual desire of the defendant, engage in sexual contact with Melody (a pseudonym), hereafter styled the complainant, by touching the genitals of the complainant, a child younger than 17 years of age.

Melody told the nurse that the abuse happened many times in her bedroom as well as the master bedroom. She told the nurse that Pearl put his private part in her. Furthermore, she reported that Pearl put his private in her "booty hole" and his mouth on her private in the front. Melody described pain from the assaults and discharge from her vagina. On the diagram of the female body, Melody circled the breasts, vagina, and butt to indicate where Pearl touched her. On the diagram of the male body, Melody circled the mouth, both hands, and penis to indicate what Pearl used to touch her. Melody's above-described testimony is sufficient evidence of two or more proscribed acts. Additionally, Melody testified Pearl committed acts of sexual abuse "probably like five times." She told the nurse Pearl did so "lots" of times. The

jury is not required to be unanimous on which acts occurred, rather that two or more acts of abuse among the seven indicted means did occur. *See* PENAL § 21.02(d).

Third, Pearl argues there was evidence that Melody made two outcry statements, one about her brother, L.W., and one about Pearl. He argues Melody was confused about the identity of her abuser. However, Melody testified Pearl sexually abused her. The nurse testified Melody told her Pearl was her sexual abuser. Consequently, the evidence presented the jury with the task of determining credibility, assessing and weighing evidence and reconciling conflicts in the evidence. *See Meza*, 706 S.W.3d at 920. The jury had sole power to decide those matters, and we defer to the jury's resolution of them. *See id.* When there is conflicting testimony, we assume the jury resolved that conflict in favor of the verdict. *Id.*

We conclude the appellate record contains sufficient evidence to support the jury's verdict. *See Jackson*, 443 U.S. at 319; *Brooks*, 323 S.W.3d at 912; *see also*, PENAL § 21.02. We overrule the first issue on appeal.

Ineffective Assistance of Counsel

In his second issue on appeal, Pearl argues he was denied the right to effective assistance of counsel. We overrule the second issue.

Standard of Review and Applicable Law:

In order to reverse a conviction for ineffective assistance of counsel, we must find that a defendant has shown (1) counsel's performance was deficient and (2)

defendant suffered prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Prine v. State*, 537 S.W.3d 113, 116 (Tex. Crim. App. 2017). Counsel's performance is deficient if it falls below an objective standard of reasonableness. *Prine*, 537 S.W.3d at 117. It is not sufficient that Pearl show, with the benefit of hindsight, that counsel's actions or omissions during trial were merely of questionable competence. *See id.* Rather, the record must affirmatively demonstrate trial counsel's alleged ineffectiveness. *Id.* Pearl must overcome the strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance and that the conduct constituted sound trial strategy. *See id.* For an appellant to defeat this presumption, any allegation of ineffectiveness must be firmly founded in the record and the record must affirmatively demonstrate the alleged ineffectiveness. *Id.*

Generally, trial counsel should be given an opportunity to explain his actions before being found ineffective. *Id.* In the face of an undeveloped record, counsel should be found ineffective only if the conduct was so outrageous that no competent attorney would have engaged in it. *Id.* A silent record that provides no explanation for counsel's actions will not overcome the strong presumption of reasonable assistance. *Johnson v. State*, 624 S.W.3d 579, 586 (Tex. Crim. App. 2021). Thus, if the record does not contain affirmative evidence of trial counsel's reasoning or strategy, we presume counsel's performance was not deficient. *Id.* Appellate courts may not find deficient performance from a silent record if there is any reasonable strategy that might support counsel's decision. *Id.* Counsel gets the benefit of the

doubt from a silent record, and courts must assume that counsel had a strategy if any reasonably sound strategic motivation can be imagined. *Id.* The record on direct appeal is generally insufficient to show that counsel's performance was deficient. *Prine*, 537 S.W.3d at 117.

Under the second prong of *Strickland*, a defendant must show a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Johnson*, 624 S.W.3d at 587. A reasonable probability is a probability sufficient to undermine confidence in the outcome. *Id.* An appellate court must examine the totality of the representation and the evidence in evaluating the effectiveness of counsel. *Id.* Failure to make the required showing of sufficient prejudice defeats an ineffectiveness claim. *Id.*

Analysis:

Pearl asserts his trial counsel provided ineffective assistance of counsel in four respects. But all Pearl's assertions of ineffective assistance fail because he does not meet his burden to show prejudice under *Strickland's* second prong. *See id.* Instead, he asserts prejudice without making any argument to carry his burden to demonstrate that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *See id.* Presuming, without deciding, the record before us supported a finding that trial counsel's performance was deficient, we still conclude that Pearl has not shown a reasonable probability that, but for trial counsel's failure, the result of the proceeding would have been different. *Lopez v. State*, 343 S.W.3d 137, 142

(Tex. Crim. App. 2011). An appellant claiming ineffective assistance of counsel must affirmatively prove prejudice from counsel’s deficient performance. *Mitchell v. State*, 989 S.W.2d 747, 748 (Tex. Crim. App. 1999). Failure to make the required showing of prejudice defeats the ineffective assistance counsel claim. *Dever v. State*, No. 10-24-00354-CR, 2025 WL 2985539 *3 (Tex. App—Waco Oct. 23, 2025, pet. ref’d) (mem. op., not designated for publication).

We overrule the second issue on appeal.

Conclusion

We affirm the trial court’s judgment.

/Tina Clinton/
TINA CLINTON
JUSTICE

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